

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO.12346 OF 2015

Eden Garden Tower Co-operative Housing Society .. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr.Kishor Tembe i/by Mr.Amol Tembe for the petitioner.

Mr.S.H.Kankal, AGP for the respondent nos.1 & 2.

Ms.Dipti Shah a/w Mr.Manish Bohre i/by A. S. Khan & Associates for the respondent no.3.

CORAM : R.D. DHANUKA, J.

DATE : 20th June 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the orders dated 17th September 2014, 21st January 2014, 21st October 2014, 22nd October 2014, 9th June 2015 and the impugned certificate dated 21st October 2014 thereby passing an order of unilateral deemed conveyance.

2. A perusal of the record indicates that the impugned orders are already implemented. Certificate under Section 11 (5) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (for short "the said Act") is also issued. The impugned orders are challenged by the petitioner on the basis of the title claimed in respect of part of the suit property which issue even otherwise could not have been gone into by the authority under the provisions of the said Act.

3. The remedy of the petitioner would be to file a civil suit. It is made clear that if any civil suit is filed, the Civil Court shall decide the issue regarding the title in respect of part of the suit property on its own merit and without being influenced by the observations made and the conclusions drawn in the impugned orders.

4. Writ petition is disposed of in aforesaid terms. No order as to costs.

R.D. DHANUKA, J.