

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12067 OF 2013

**M/s.Tirumala Developers,
Through Mr.K.Mani Naidu**

..... Petitioner

VERSUS

**M/s.Heritage Co-operative Housing
Society Ltd. & Ors.**

..... Respondents

Mr.Suresh Rajeshwar for the Petitioner.

Mr.Uday P.Warunjikar for the Respondent no.1.

ALONGWITH

WRIT PETITION NO. 1977 OF 2014

Charan Trimbak Patil & Ors.

..... Petitioners

VERSUS

**M/s.Heritage Co-operative Housing
Society Ltd. & Ors.**

..... Respondents

Mr.Surel S.Shah, i/b. Mr.Abdul L.N.Khatri for the Petitioners.

Mr.Uday P.Warunjikar for the Respondent no.1.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 12 and 13.

ALONGWITH

WRIT PETITION NO. 1367 OF 2014

Smt.Kanchan Kantilal Deo & Ors.

..... Petitioners

VERSUS

**M/s.Heritage Co-operative Housing
Society Ltd. & Ors.**

..... Respondents

None for the Petitioners.

Mr.Uday P.Warunjikar for the Respondent no.1.

CORAM : R.D. DHANUKA, J.

DATE : 12th FEBRUARY, 2018

P.C.

By these three petitions filed by the petitioners, the petitioners have impugned the order passed by the authority granting deemed conveyance in favour of the respondent no.1 society. It is not in dispute that a deed of conveyance has been already executed in favour of the respondent no.1 society in compliance with the impugned order which are subject matter of these petitions.

2. It is clear that the order passed by the second respondent – Deputy Registrar under sections 11(3) and 11(4) of the Maharashtra Ownership Flats Act, 1963 would not conclude any issue, particularly regarding the right, title and interest of the petitioner in any immovable property. If the deemed conveyance is granted in respect of any property to which the applicant, namely, respondent No.1 was not entitled to, then, the petitioner is not prevented in law from bringing appropriate proceedings, including a suit to establish and prove its independent right, title and interest, to claim a declaration that any act of the second respondent and the order passed and impugned in the petition would not bind it. All such contentions and controversy in the suit of all parties are kept open.

3. The interim orders passed by this court to continue for a period of three months from today. The petitioners would be at liberty to apply for continuation of the interim order before civil court. Civil

court shall consider such application on its own merits.

4. If any plea of limitation is raised by the defendants in those suits proposed to be filed by the petitioners, the trial court shall consider the plea of the petitioners under section 14 of the Limitation Act, 1963 while dealing with the issue of issue of limitation if any, raised by the defendants.

5. Writ petitions are disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]