

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.302 OF 2015

Dr. Mandar Rajaram Joshi ... Petitioner
Vs.
The District Deputy Registrar III Co-operative
Societies and Competent Authority and others ... Respondents

Mr. Piyush Raheja i/b. RVJ Asso. for Petitioner.
Mr. C. D. Mali, AGP for Respondent No.1.
Mr. R. A. Thorat, Senior Advocate i/b. Mr. Dinesh Rane for Respondents
No.2 and 3.

CORAM : R. G. KETKAR, J.
DATE : NOVEMBER 19, 2018

P.C. :

Heard Mr. Raheja, learned Counsel for the petitioner, Mr. Mali, learned AGP for the respondent No.1 and Mr. Thorat, learned Senior Counsel for the respondents No.2 and 3.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 03.04.2014 passed by the respondent No.1 - Competent Authority and District Deputy Registrar III, Co-operative Societies, Mumbai in Application No.77 of 2013. By that order, the Competent Authority had given unilateral deemed conveyance in favour of respondents No.2 and 3. Respondent No.1 has also issued certificate along with the impugned order.

3. Mr. Thorat states that in pursuance of the impugned order, the conveyance is registered on 24.07.2014. He further states that M/s. Homelands Corporation had instituted Writ Petition No.1364 of 2015 in this Court challenging the very same order as also certificate. By order dated 19.03.2018, Petition was allowed to be withdrawn with liberty to file Suit.

4. Mr. Raheja states that petitioner is present in the Court. He has tendered photocopy of his driving licence, which is taken on record and marked 'A' for identification. Upon taking instructions from the petitioner, Mr. Raheja seeks permission to withdraw this Petition. He assures that within 10 weeks from today, petitioner will file Suit before the appropriate Court challenging the impugned order as also certificate issued by the Competent Authority among other reliefs as the petitioner will have to issue notice under Section 164 of the Maharashtra Co-operative Societies Act, 1960 before filing the Suit. He further states that it may be clarified that if the Suit is instituted within 10 weeks from today, the time spent by the petitioner in prosecuting this Petition from 09.12.2014 till date challenging the impugned order and certificate may be excluded while considering the issue of limitation.

5. In view thereof, on the motion made by Mr. Raheja, Petition is allowed to be withdrawn with liberty as prayed for. If the petitioner institutes Suit within 10 weeks from today, the time spent by the petitioner in prosecuting this Petition from 09.12.2014 till date challenging the impugned order and certificate shall be excluded while considering the issue of limitation. It is made clear that this Court has not examined merits of the case. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab