

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

***WRIT PETITION NO.11921 OF 2012
ALONG WITH
WRIT PETITION NO.11922 OF 2012
ALONG WITH
WRIT PETITION NO.11923 OF 2012
ALONG WITH
WRIT PETITION NO.11925 OF 2012
ALONG WITH
WRIT PETITION NO.11926 OF 2012
ALONG WITH
WRIT PETITION NO.11927 OF 2012***

Vilas Madhukar Gupte .. Petitioner
Vs.
Balkrishna V. Suryawanshi & Ors. .. Respondents

Mr.V.V. Kanade i/by Mr.S. S. Gawade for the petitioner.
Mr.S.N. Chandrachood for the respondent no.1.
Mr.Yakshay Chheda i/by M/s.ALMT Legal for the respondent no.4.
Mr. S.D. Rayrikar, AGP for the respondent nos.16 & 17-State.

***CORAM : R.D. DHANUKA, J.
DATE : 21st February 2018***

P.C.:

. In these aforesaid petitions, the petitioner has impugned the order and Certificate of Deemed conveyance dated 8th February 2012 filed by the respondent no.1 Society.

2. Learned counsel appearing for the respondent no.1, on instructions, states that the impugned orders passed by the authority are already implemented. Deemed Conveyance is already executed. Name of the respondent no.1 society has already been entered into the mutation record. The society has also taken various further steps pursuant to the

impugned order passed by the authority and thus nothing survives in these writ petitions.

3. Learned counsel invited my attention to the order dated 22nd October 2012 passed by this Court in Writ Petition No.5615 of 2012 in the case of M/s.Butala-Dadhe Associates Vs. District Deputy Registrar, Co-operative Societies, Pune and other companion matters. He submits that the respondent no.1 has no objection if the issue of right, title and interest in the immovable property can be independently decided in the civil suit that may be filed by the petitioner in respect of the property in question in line with the directions issued by this Court in the said order. Statement is accepted.

4. This Court in the said order dated 22nd October 2012 has held that beyond issuing a certificate under Section 11(3) of the Maharashtra Ownership Flats (Regulation of the promotion of Construction, Sale, Management and Transfer) Act, 1963 which certificate will be registered as a deemed conveyance, the order and the certificate issued does not conclude the issue of right, title and interest in the immovable property and particularly of the nature claimed by the petitioners therein. It is further clarified that the order of competent authority does not conclude any of the contentions and issues in substantive proceedings which may be instituted by the petitioners to claim right, title and interest in the immovable property in question. All contentions in that behalf are kept open. Same directions apply to the facts of this case also. It is made clear that the impugned order passed by the competent authority is not conclusive of right, title and interest in the immovable property of the petitioner and the same can be

independently decided by the Civil Court in the suit which may be filed by the petitioner.

5. The petitioner has not filed a civil suit till date. If any suit is filed by the petitioner for adjudication of the right, title and interest of the suit property, the same can be independently decided by the civil Court. All contentions of the respondent no.1 society on merits in respect of such alleged right, title and interest in the immovable property of the petitioner claimed by the petitioner are kept open.

6. It is however made clear that all contentions on merits in so far as the reliefs that would be claimed in the said suit which are raised by the learned counsel for the respondent no.1 society in these proceedings are kept open.

7. The aforesaid writ petitions are disposed of in these terms. No order as to costs. Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.