

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

**WRIT PETITION NO.419 OF 2014**

Motilal Sheetalaldas Lalwani & Ors. .. Petitioner  
Vs.  
Bhakti Plaza Commercial Premises  
Co-operative Housing Society Ltd. & Ors. .. Respondents

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Mr.Atul Damle, Senior Advocate i/by Mr.Jayesh Joshi for the petitioner.  
Mr.Pawan Patil for the respondent no.1.  
Mr.S.D.Rayrikar, AGP for the respondent no.4.

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**CORAM : R.D. DHANUKA, J.**  
**DATE : 4<sup>th</sup> July 2018**

**P.C.:**

. The petitioner has impugned the order dated 21<sup>st</sup> October 2013 passed by the respondent no.4 thereby passing an order of deemed conveyance in favour of the respondent no.1 society.

2. A perusal of the record indicates that though the original respondent no.2 Mr.Bhagwandas Sheetalaldas Lalwani had expired prior to date of passing of order, the competent authority has not taken cognizance of the said fact and had passed an order of deemed conveyance against all the respondents including a dead person.

3. In my view, on this ground itself, the impugned order passed by the respondent no.4 is vitiated. This Court has not gone into the other grounds of challenge to the impugned order in view of the fact that the impugned order came to be passed also against a dead person.

4. I therefore pass the following order :-

- (i) The impugned order dated 21<sup>st</sup> October 2013 is accordingly quashed and set aside.
- (ii) Application No.189 of 2013 filed by the respondent no.1 society is restored to file before the competent authority for deciding the matter afresh and in accordance with law.
- (iii) The respondent no.1 society is directed to bring the legal heirs of the original respondent no.2 on record and shall serve a copy of the application for deemed conveyance along with documents upon the legal heirs of the original respondent no.2. Legal heirs of the original respondent no.2 would be at liberty to file an affidavit in the said proceedings within two weeks from the date of service of the papers and proceedings of the writ petition and shall serve a copy thereof upon the respondent no.1 who is the applicant in the said Application No.189 of 2013 simultaneously.
- (iv) Learned competent authority shall dispose of the said application within three months from the date of completion of the pleadings by the legal heirs of the original respondent no.2.
- (v) None of the parties shall seek unnecessary adjournment before the learned competent authority.
- (vi) Till the said application is disposed of and for a period of two weeks from the date of communication of the order, if the same is

adverse against the petitioner, the respondent no.1 society shall not take any further steps by acting upon the order of deemed conveyance.

(vii) Writ petition is disposed of in aforesaid terms.

(viii) There shall be no order as to costs.

***R.D. DHANUKA, J.***