

sg

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1025 OF 2015**

Mumtaz Elyas Kherani	...Petitioner
vs	
The State of Maharashtra And 3 Ors.	...Respondents

.....

Mr. Mukesh M. Vashi, Senior Advocate, aw/. M. Prachi Khandge and Ms. Pamela Dalal, i/b. M.P. Vashi Associates, for the Petitioner.

Mr. Mohit Jadhav, AGP, for Respondent Nos. 1 and 2.

Mr. Dharam Sharma, i/b. Dharam & Co., for Respondent No.3.

.....
CORAM : S.C. GUPTE, J.

DATED : 13 MARCH, 2018

P.C. :

. Heard learned Counsel for the Petitioner and the Respondents.

2. This petition challenges an order of deemed conveyance passed under Section 11(3) and 11(4) read with Section 5A of Maharashtra Ownership Flats (Regulation of the Promotions of Construction, Sale, Management and Transfer) Act, 1963 ('MOFA') and the rules made thereunder. The Petitioner herein claims to be one of the partners of Respondent No.4 Firm. Respondent No.4 Firm had constructed a building known as Shakoor Manor at 83, Kherani Compound, Dawood Baug, Andheri (W), Mumbai - 400 058.

Respondent No.4 as a promoter had sold flats to various flat purchasers in the year 1992. The firm was, thereafter, dissolved in the year 1994. No conveyance was effected in respect of the suit building consisting of these flats in favour of the Co-operative Society, who is Respondent No.3 in the present petition. The Respondent Society, accordingly, filed an application under Section 11 of the MOFA for conveyance of the suit property. The application was admittedly received at the address of Respondent No.4 Firm and the Petitioner herein appeared as a past partner of the Firm before the District Deputy Registrar of Co-operative Societies, who is the competent authority to consider an application for deemed conveyance. The only contention raised by the Petitioner before the authority in reply to the application was that the application is filed in the name of dead person as also in the name of a firm, which has since come to be dissolved. It is an admitted position that the Petitioner represented herself before the authority. It is also an admitted position that a public notice was issued of the application in local newspapers. As far as the merits of the application are concerned, there is not even a single ground stated in the petition or urged before this Court, on which the application for deemed conveyance could not have been granted. In the premises, considering that the interest of the developer and owner of the suit property was adequately represented, both the owner and the developer being merely a family firm of the Petitioner, merely on the ground that the application was filed in the name of a dead person, the impugned order cannot be successfully challenged so long as no other fault can be found with the impugned order. Accordingly, there is no merit in the petition. The petition is dismissed.

(S.C. GUPTE, J.)