

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1523 OF 2015

Virendra Amrutlal Shah.

..Petitioner.

Versus

District Deputy Registrar and Others.

..Respondents.

Mr. Vikhil Dhoka, Ms. Sayli Shetty i/b Solicis Lex for the Petitioner.
Mrs. Jyoti Chavan, AGP for the Respondent-State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **June 13, 2018.**

P. C. :

1. Heard. By this petition, the Petitioner is challenging the order passed by Respondent No.1 under section 5A of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 [for short "the MOFA Act"]. By the said order, deemed conveyance of the subject land is granted in favour of Respondent No.2–Society.

2. The subject land belongs to Respondent Nos.3 to 12. It was declared surplus under the provisions of the Urban Land (Ceiling and Regulation) Act, 1963 [for short "the ULC Act"]. However, scheme contemplated under section 21 of the ULC Act was sanctioned in favour of those owners and they were permitted to construct small tenements on the subject land. The Petitioner thereafter in agreement

with these owners, has developed the subject land and the members of Respondent No. 2 have purchased those tenements.

3. It is the obligation of the owners as well as the Petitioner who is developer, to execute conveyance in favour of Respondent No. 2 society, which needs to be done within the period of four months from the date of registration of the society. They have failed. Therefore, Respondent No.2 approached Respondent No.1 and after hearing all concerned, the impugned order is passed.

4. Learned Counsel for the Petitioner invited our attention to the exemption order dated 25th July 1979, made under section 21(1) of the ULC Act and submitted that impugned order will result in violation of Condition No. 6. Condition No. 6 of the exemption order reads as follows :

"In the case of dwelling unit sold or otherwise transferred its resell or transfer shall not be permitted for a period of five years from the date of completion of dwelling units"

5. Under the said condition, occupants cannot transfer dwelling unit for the period of five years. While exercising jurisdiction under section 5A of the MOFA Act, Respondent No.1 – Registrar is not concerned with the sale of tenements. By the impugned order, Respondent No.1 has granted deemed conveyance in favour of

Respondent No.2 society in respect of the land beneath the building. In any case, the Petitioner cannot make a grievance against the same inasmuch as he has already developed the subject land and sold out the flats to members of Respondent No. 2-Society. The petition is without any merit and the same is therefore dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]