

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5235 OF 2016**

Yasmin Cooperative Housing Society Ltd. ..Petitioner
Vs.
Aspandiyar R. Irani & ors. ..Respondents

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Mr. V.P. Vaidya I/b. Mr. Mahendra Agvekar for petitioner.
Mr. D.S. Mhaispurkar for respondent No.1.
Mr. Sameer M. Mangaonkar for respondent No.2.
Mr. R.P. Kadam, AGP for State.

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CORAM : M.S.KARNIK, J.

DATE : 3rd JANUARY, 2019

P.C. :

The petitioner by this Petition filed under Article 227 of the Constitution of India challenges an order dated 17th November, 2015 passed by respondent No. 3 - Competent Authority and District Deputy Registrar, Thane, under the provisions of Section 10(1) of the Maharashtra Ownership of Flats Act, 1963 ('the said Act' for short).

2. One of the contention of learned Counsel for petitioner is that the order passed by Competent Authority is not

a reasoned order. My attention is also invited to the operative part of the order where the Competent Authority has specifically mentioned that the application filed by petitioner is rejected for the present. At the relevant time when the order was passed G.R. dated 29th November, 2010 was operative where consent of 60% of the flat owners as per sanctioned plan was required. The impugned order was passed as far back as on 17/11/2015.

3. Learned Counsel for the petitioner submits that there are subsequent developments and presently the rights of the petitioner would be governed by G.R. dated 23rd March, 2016. According to the petitioner, they have requisite percentage of consents as required by said G.R.

4. Learned Counsel for respondent No.1 supports the impugned order.

5. Having considered the submissions advanced, I find that the impugned order is not a reasoned order. Moreover, the impugned order records that the application made by the

petitioner is rejected for the present. There is no dispute that there are subsequent developments. In my opinion, therefore the following order would meet the ends of justice :

ORDER

I) The petitioner to make a fresh application under Section 10(1) of the said Act seeking appropriate reliefs.

II) If such an application is made by petitioner within a period of 4 weeks from today, the Competent Authority to decide the same as expeditiously as possible and in any event within a period of six months from the date of filing of the application.

III) It is made clear that the application filed by the petitioner shall be decided on its own merits without being influenced by any of the observations made in the impugned order dated 17/11/2015.

IV) All the contentions of the parties are kept open.

6. The Writ Petition is disposed of.

(M.S.KARNIK, J.)