

BDP-SPS

Bharat
D. Pandit

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6036 OF 2019

***(Modified as per speaking to the minutes of the order dated
16/10/2019)***

Rajesh Ramharak Kanojia

..... Petitioner.

V/s

Mini Rose Co-operative Housing
Society Ltd. & Ors.

..... Respondents.

Mr. Nitesh S. Acharya for the Petitioner.

Mr. Vishal Kanade a/w Mr. Ankur Shah I/b Mr. Jatin Sheth for
Respondent Nos. 1 to 9.

Mr. S.D. Rayrikar, AGP for Respondent Nos. 10 to 13.

CORAM: NITIN W. SAMBRE, J.

Reserved on: 11/06/2019

Pronounced on : 27/08/2019

P.C.:-

1] This Petition is under Article 227 of the Constitution of India by

the alleged purchaser of the property, questioning the order dated **07/03/2019** passed by the **State Government** in Revision preferred under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to for the sake of brevity as “the Act”)

2] The case of the Petitioner is, vide Conveyance Deed dated 06/03/2009, property on which Respondent No.1 – Society was granted registration, came to be purchased by him and as such, under Section 21A of the Act, registration granted is required to be cancelled (de-registered). The claim of the Petitioner is, suit property admeasuring about 448.6 Sq. Mtrs. was purchased by him for a consideration of Rs 3 lakhs vide Deed of Conveyance dated 6/3/2009. Based on the aforesaid Deed of Conveyance, Petitioner has initiated Suit No.694 of **2016**, challenging the building and other permissions and also Suit No.400 of 2017, challenging Deemed Conveyance in favour of Respondent No.1 – Society. According to the learned Counsel for the Petitioner, in view of vesting of title by virtue of Conveyance Deed dated 06/03/2009, the Petitioner has every right to question the Deemed Conveyance granted in favour of Society on 21/11/2016 registered on **31/12/2016**.

3] While countering the aforesaid submissions, the learned Counsel for the Respondent and learned AGP would support the order impugned passed by the Respondent allowing the Revision application and setting aside the order dated 11/01/2019 passed by the Divisional Joint Registrar. According to them, Petitioner is already litigating based on his alleged title before the competent Civil Court and that being so, Petition is liable to be dismissed.

4] Considered the rival submissions.

5] The Respondent No.1 – Society was granted registration way back pursuant to the application moved by it, which is at Exhibit-J. The Petitioner is banking his case on the Conveyance Deed dated 06/03/2009. The Promoter i.e. Respondent No.14 has initiated Civil Suit No.327 of 2017, challenging the aforesaid Conveyance Deed as fraudulent document. It is also required to be noted that the Petitioner, based on his title, has initiated Suit No.694 of 2016 and Suit No.400 of 2017, challenging building and other permissions and Deemed Conveyance respectively. Deemed Conveyance was granted in

favour of Respondent No.1 – Society on 21/11/2016 and was registered on 31/12/**2016**. On the site, a building of the Society consisting of ground plus three floors is standing and the Petitioner claims that an area of 448.6 Sq. Mtrs. in the City of Mumbai was purchased by him in 2009 for consideration of Rs 3 lakhs.

6] As a matter of fact, the Petitioner's title to the suit property itself is under cloud, being subjudiced in competent Civil Court. Not only this, there operate certain injunctions against the Petitioner in the Civil Suit.

7] In the aforesaid background, the reasons which are relied upon by **the** State Government while passing the impugned order dated 07/03/2019 **is** germane to the cause. The views expressed by **authority is** just, proper and plausible. Apart from above, the Petitioner has failed to demonstrate as to the legal injury which is likely to cause to him, so as to order de-registration of Respondent No.1 – Society pursuant to the provisions of Section 21A of the Act.

8] In view of above and having regard to findings, no case for interference is made out. Petition is dismissed.

(NITIN W. SAMBRE, J.)