

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

WRIT PETITION NO.11669 OF 2018

Chandan Cooperative Housing Society Ltd
Through its Chairman/Secretary : **Petitioner.**
Versus
Runwal & Associates and ors. : **Respondents.**

Mr. Rajesh S Datar for the Petitioner.
Mr. S H Kankal , AGP for the Respondent/State.

CORAM : S. S. SHINDE, J
DATE : 11th March 2019

P.C.

1 The above Writ Petition takes exception to the order dated 14th May 2018 passed by the Competent Authority and District Deputy Registrar, Cooperative Societies, Thane by which order the Application No.36 of 2018 filed by the Petitioner herein for Deemed Conveyance came to be rejected. However, the Competent Authority has granted liberty to the Petitioner to make a fresh Application.

2 It is the case of the Petitioner that the Petitioner Society was registered under the provisions of the Maharashtra Cooperative Societies Act, 1960. The Petitioner Society made an application dated 22/01/2018 to the Respondent No.4 under the provisions of Section 11(3) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale

Management and Transfer) Act, 1963 for grant of certificate of Deemed Conveyance in respect of the land on which the building of the Society is situated. The Competent Authority raised objections and called upon the Petitioner Society to comply with the same. It is the case of the Petitioner that the Petitioner accordingly complied with the objections and requested for early hearing of the said Application. The Authority accordingly issued notices to the parties. However, the Authority rejected the said application on the ground that the survey numbers mentioned in the applications were different. Hence this Petition.

3 On a consideration of the material on record, the Competent Authority rejected the application filed by the Petitioner for grant of deemed conveyance. The Competent Authority has held that there is a discrepancy or mistake in the application and therefore rejected the said Application. The Competent Authority did not deem it fit to issue deemed conveyance in favour of the Petitioner and accordingly rejected the application. However, a liberty was granted to file the application afresh after rectifying the said mistake.

4 The learned counsel appearing on behalf of the Petitioner Society submits that the Respondent No.4 while rejecting the application for grant of deemed conveyance adopted a hyper technical view on the ground of alleged discrepancy in mentioning the survey numbers of the land on which

the building of the society is constructed. The Petitioner has submitted the said application online wherein the Petitioner in paragraph No.2 of the said application mentioned the Survey Number of the property as 372 admeasuring 1925.65 sq.meters. The Petitioner has also submitted the application for deemed conveyance in writing. However, there is a typographical mistake and in paragraph No.2 of the said application, the area of the plot i.e. 1925.65 sq.mtrs. was mentioned as the survey number of the property. It is therefore submitted that the view taken by the Authority is a hyper technical view and the Petition deserves to be allowed.

5 Per contra, the learned AGP appearing for the Respondent No.4 submits that there is a discrepancy in mentioning the survey number of the property in the applications submitted by the Petitioner and, the Competent Authority has rightly rejected the application on the said ground. He further submitted that the impugned order is a well reasoned order. It is further submitted that though the application has been rejected by the impugned order, the Competent Authority has granted liberty to rectify the said mistake and apply fresh, and therefore the order passed by the Competent Authority need not be interfered with by this Court in its writ jurisdiction.

6 Having heard the learned counsel for the parties, I have considered the rival contentions. On perusal of the reasons assigned in the

impugned order, this Court is of the opinion that there was mistake committed by the Petitioner Society in the application by mentioning the area of the property i.e. 1925.65 as the survey number of the property in paragraph No.2 of the said written application. It appears on record that there were two applications, one is online application and another is written application submitted by the Petitioner personally to the Competent Authority. The Petitioner Society while applying for deemed conveyance has to mention the correct description of the property. While rejecting the application, the Competent Authority has granted a liberty to the Petitioner to rectify the mistake and then apply afresh. In that view of the matter, no case for interdiction in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[S. S. SHINDE , J]