

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12838 OF 2019

M/s. Rockline Properties and Developers Pvt. Ltd.
through its Authorized Signatory Ashish S. Raval ... Petitioner
Vs.
Chairman / Secretary of Akashdeep Co-op. Housing
Society Ltd. and others ... Respondents

Mr. Ranjit Thorat, Senior Advocate i/b. Mr. Prashant Nakati for
Petitioner.

Mr. K. R. Tiwari i/b. Mr. R. K. Shukla for Respondent No.1.

Mr. P. P. Kakade, Government Pleader a/w. Mrs. V. S. Nimbalkar, AGP
for Respondent Nos.5 and 6-State.

CORAM : UJJAL BHUYAN, J.
DATE : DECEMBER 18, 2019

P.C. :

Heard Mr. Thorat, learned Senior Counsel for the petitioner; Mr. Tiwari, learned counsel for respondent No.1; and Mr. Kakade, learned Government Pleader for respondent Nos.5 and 6-State.

2. In this Petition, petitioner has assailed legality and correctness of order dated 11.03.2019 passed by the District Deputy Registrar of Co-operative Societies (2), Eastern Suburbs, Mumbai and the consequential deemed conveyance dated 27.09.2019.

3. District Deputy Registrar of Co-operative Societies has filed an affidavit. In paragraphs 8, 9 and 10 of the said affidavit, he has stated as under:

“8. I say that for the first time I came to know that the Respondent No.1 Society has concealed many material facts from me while obtaining the Deemed Conveyance. I say that the material which was put forward by the Applicant i.e. Respondent No.1 Society while obtaining the Deemed Conveyance, I relied upon those contentions and averments and passed necessary Order as per the Law. The Respondent No.1 concealed that they have a litigation going on between Petitioner and Respondent No.1, hence they were aware of the

address of the Petitioner. Also the adjoining property which later they included in their application is a property belongs to Petitioner.

9. I say that there are many issues which are to be dealt with which came to my personal knowledge after receipt of the Complaint dt.15.11.2019, which I regret to record that if this Complaint would have come to my knowledge or these facts would have come to my knowledge before passing of the Order of Deemed Conveyance, I certainly would have taken care and considered these objections while passing the Order.

10. I further say that I have already issued notice to the Respondent No.1 Society for seeking an explanation and hearing on 12.12.2019. Hereto annexed and marked as EXHIBIT-6 is the copy of Notice dt.30.11.2019 and EXHIBIT-7 is the copy of Notice dt.4.12.2019 issued by this Respondent No.5. And since I have become functus officio, I would rather not withdraw this Order but place all the material facts before this Hon'ble Court to pass an appropriate Order. I also say that if this Hon'ble Court directs me to hear the parties again and pass a fresh Order, I would be obliged to do so."

4. In view of above and as agreed to by learned counsel for the parties, impugned order dated 11.03.2019 as well as the consequential deemed conveyance dated 27.09.2019 are hereby set aside and matter is remanded back to the District Deputy Registrar of Co-operative Societies (2), Eastern Suburbs, Mumbai for re-hearing of the matter and for a fresh decision in accordance with law.

5. Needless to say that the said authority shall notify all the concerned parties and after hearing them pass necessary order within a period of two months from the date of receipt of an authenticated copy of this order.

6. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)

Minal Parab