

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10848 OF 2019

ALONG WITH

WRIT PETITION NO.11113 OF 2019

ALONG WITH

WRIT PETITION NO.11671 OF 2019

ALONG WITH

WRIT PETITION NO.11672 OF 2019

ALONG WITH

WRIT PETITION NO.11674 OF 2019

ALONG WITH

WRIT PETITION NO.11675 OF 2019

The Suryodaya Co-op. Housing
Society Ltd.

..

Petitioner

Vs.

The State of Maharashtra
& Ors.

..

Respondents

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Mr. P.D. Dalvi for the Petitioner in all matters.

Mr. P.P. Kakade, Government Pleader with Ms. S.S. Ponchpor,
A.G.P. for Respondent Nos.1 and 2 in all matters.

Mr. Atul Damle, senior counsel with Mr. Dattaram Dindikar and

Ms. Manasi Giri i/b D.M. Associates for Respondent Nos.3 to 7 in Writ Petition No.11113 of 2019, for Respondent Nos.3 and 4 in Writ Petition No.11671 of 2019 and for Respondent No.3 in Writ Petition No.11674 of 2019.

Mr. Uday P. Warunjikar for Respondent No.3 in Writ Petition No.10848 of 2019.

Mr. S.M. Sabrad with Mr. Amey C. Sawant for Respondent No.3 in Writ Petition No.11675 of 2019.

Ms. Hemlata Patil for Respondent No.3 in Writ Petition No.11672 of 2019.

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**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 12th FEBRUARY, 2020.

P.C:-

1. A common issue arises for consideration in the above captioned Writ Petitions and therefore they are being decided by a common judgment.

2. The Petitioner, as its name tells us, is a Co-operative Housing Society. A Co-operative Society is formed by the members who group together in a common venture from which each one gains and others also gain.

3. From the funds collected by the members of the Petitioner-

Co-operative Society a corpus was created and from that corpus, land was obtained from the State Government. The indenture of grant by the State Government required the Co-operative Society to execute development work on the land and carve out residential plots to be allotted to the members. From the funds made available to the Co-operative Society by the members not only the land premium was paid but additional development work required to colonise the road was executed and thereafter deeds of confirmation were executed.

4. The interest created in favour of the Society and needless to state the beneficial interest actually vesting in the members was that of a Class-II tenure-holder i.e. not having a right to transfer interest in the land without the permission of the State.

5. Needless to state once the Co-operative Society develops the land and transfer the utilizable land which comprised various plots carved out, it was the interest of the members of the Society which was impacted by the Class-II tenure of the land.

6. Surely, nobody would purchase road, a storm water drain or sewer line.

7. Vesting of the land in the Society concerning the roads, storm water drains and sewer land is as a trustee for the benefit

of the members to whom the plots had been allotted.

8. The members applied to the Collector for conversion of tenure of the land from Class-II to Class-I. It pertained to the parcels of land post plotting demised to them. The request is akin to a request where a leasehold tenure is converted into a freehold tenure or a tenure with a restriction of a further sale being removed but upon returns granted i.e. the unearned increase or a premium to be paid to the State Government.

9. This is contemplated by the Maharashtra Land Revenue (Conversion of Occupancy Class-II and Leasehold lands into Occupancy Class-I lands) Rules, 2019.

10. Request by the members in terms of the rules has been upsetted by the Collector by the orders of different dates but identical words save and except the names of the members and plot numbers.

11. The Petitioner can have no grievance to the same.

12. The contention of the Petitioner is that the Petitioner is the owner of the land and its members cannot be conferred with any right to sell the parcels of land allotted to them post-development.

13. There is no merit in the contention for the reason the rules which we have noted hereinabove have to be read meaningfully. The rules envisage conversion of Class-II interest into Class-I interest. Once individual plots are demised to the members of the Society, the choice of interest has to be exercised by members and is not vested in the Co-operative Society.

14. The Writ Petitions are dismissed.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)