

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

**CIVIL APPLICATION NO.193 OF 2019
IN
WRIT PETITION NO.1256 OF 2015**

Kantilal Tulsidas Patel
(Since deceased) & Ors.

..Applicants.

Vs.

Milandhara Co-operative Housing
Society Ltd. & Anr.

..Respondents

.....

Mr. A. G. Damle, Senior Advocate i/b. M/s. K. Ashar & Co., Advocate
for the Petitioners.

Mr. Ameet Mehta a/w. Vaishali Sanghavi & Charoo Shukla i/b.
Solicis Lex, Advocate for Respondent No.1.

Mr. S. D. Rayrikar, AGP for Respondent No.2.

CORAM : C.V. BHADANG, J.

DATE : 04th FEBRUARY, 2020

PC.

. Heard learned Senior counsel for the applicants and learned
counsel for the first respondent.

2. The grievance raised in the present application by the
applicants / petitioners is that the first respondent society is
proceeding with the demarcation of the area of 1838.80 sq. meters
in respect of which the deemed conveyance is granted by the second
respondent, in favour of the society.

3. The learned Senior counsel for the applicants has pointed out
para 12 of the reply filed by the first respondent in which the first

respondent has stated that the respondent is not intending to construct any boundary wall on the said plot.

4. On hearing the learned counsel for the parties, it appears that Writ Petition No.1256/2015 has already been admitted on 3/7/2017 and at that time the interim relief was refused on the ground that deemed conveyance was already executed in favour of the first respondent on 23/9/2015. The order dated 3/7/2017 also records that the area granted by the deemed conveyance has been mutated in the name of the first respondent on 6/1/2017.

5. Learned counsel for the first respondent, on instructions, states that the first respondent shall not construct any boundary wall or will not make any construction segregating the said area from the rest of the plot. Subject to this statement, I do not find that mere demarcation of allotment of a separate sub-division, if any can be prohibited at this stage. Needless to mention that any such demarcation and allotment of a separate sub-division if any, shall be subject to the outcome of the petition. With this, the civil application is disposed of

C.V. BHADANG, J.