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

WRIT PETITION NO. 4038 OF 2021

M/S. ROYALE PROMOTERS AND BUILDERS
& ANR.

..PETITIONERS

VS.

THE STATE OF MAHARASHTRA & ORS.

..RESPONDENTS

Mr. S.R. Ronghe for the petitioners.

Mr. S.H. Kankal, AGP for the respondent Nos. 1 and 2 - State.

Mr. Akshay Deshmukh for respondent No.3.

CORAM : M.S.KARNIK, J.

DATE : AUGUST 31, 2021

P.C.

Heard learned counsel for the petitioners.

2. The petitioner No.1 is the promoter. The petitioner No.2 is the society which comprises of building 'A'. The dispute is between 'Royal Enclave', 'A' Wing and 'Royal Enclave', 'B' Wing - societies.

3. In an earlier round of litigation, this Court by an order dated 26/2/2020 in Writ Petition No. 10693 of 2019 in Clause 5 (ii) directed the present petitioner No.2 ('A' Wing) and present respondent No.3 - society ('B' Wing) to jointly seek conveyance in respect of the area admeasuring 1307 sq. mtrs. situated at CTS No. 715, Guruwar Peth, Pune, in accordance with law.

4. By the impugned order, the proportionate area to the extent of 818.21 sq.mtrs. is granted in favour of 'A' Wing and area of 451.21 sq.mtrs. Is granted in favour of 'B' Wing. The society which comprises of the 'A' Wing is aggrieved by such an arrangement. According to learned counsel, this Court had merely directed that the petitioner No.2 as well as the respondent No.3 will jointly seek conveyance. There was no question of granting a proportionate area in favour of 'B' Wing and therefore, the area to which the petitioner No.2 is entitled to has been wrongly conveyed in favour of the respondent No.3 – society by the Competent Authority.

5. In effect what is submitted is that the entire area of 1307 sq. mtrs. should have been jointly conveyed in favour of the petitioner No.2 and the respondent No.3 – society instead of the bifurcation as made by the Competent Authority.

6. Learned counsel for the respondent No.3 – society submitted that the impugned order has already been acted upon and certificate is issued.

7. It is well settled that the order granting deemed conveyance under the provisions of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act 1963 does not determine the right, title and interest in the property conveyed.

8. This Court in the cases of **Mazda Construction Company & Others Vs. Sultanabad Darshan CHS Ltd. & Others¹** and **Angeline Randolph Pareira & Ors. Vs. Suyog Industrial Estate Premises Co-operative Society Ltd. & ors.²** held that the dispute regarding the area to which the societies are entitled to can be decided by resorting to the remedy of the suit. I, therefore, do not propose to interfere with the present order and clarify that the suit, if filed, shall be decided on its own merits without being influenced by the order granted deemed conveyance. It is open for the petitioners to approach competent Civil Court on all disputed issues including that of title.

9. The Writ Petition is disposed of.

(M.S.KARNIK, J.)

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1 2013 (2) ALL MR 278

2 2018 (6) ALL MR 729