

Urmila Ingale

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

WRIT PETITION NO. 3727 OF 2019

Raghunath Mandalkar
deceased thru. Lrs.

1(a) Bhagawan Sudam Mandalkar and ors.Petitioners

Vs.

Landmark Co-operative Housing
Society Limited and ors.

..... Respondents

None for the Petitioners.

Mr.Bhavin Gada a/w Ms.Monica Jagtap & Mr.Mohit Sahani i/b
Solicis Lex, for Respondent No.1.

Mr.P.P. Pujari, AGP for the Respondent – State.

CORAM : M. S. KARNIK, J.

DATE : 14th JANUARY, 2021

P.C. :

. Heard learned Counsel for the Respondent No.1 –
Society and learned AGP appearing for Respondent No.4.

2. None appears on behalf of the Petitioners. Learned
Counsel for Respondent No.1 says that Ms.Monica Jagtap –
Attorney for Respondent No.1 had contacted Mrs.Ghummla –
Attorney for the Petitioners and informed her that the Petition has

been kept back at 2.30 p.m. as none appeared on behalf of the Petitioners in the morning session.

3. It is the contention of the Petitioners that they were not heard when the impugned order which is at Exhibit 'A' for deemed conveyance was passed in favour of the Respondent No.1.

4. Learned Counsel for Respondent No.1 fairly submitted that he has no objection if Petitioners are heard in the proceedings before the District Deputy Registrar, Co-operative Societies, Mumbai and Competent Authority under section 5A of the Maharashtra Ownership Flats Act, 1963. Learned Counsel for Respondent No.1 pointed out that in the proceedings before the Competent Authority, Sudam Mandalkar predecessor-in-title of the Petitioners was party. Learned Counsel for Respondent No.1 nonetheless in all fairness says that he has no objection if the Petitioners are made party to the proceedings whereafter appropriate orders can be passed on the Application 19 of 2015.

5. Considering the narrow controversy and the fair stand taken on behalf of Respondent No.1, the impugned order dated 02/11/2015 at Exhibit 'A' is set aside.

6. The matter is remitted back to the Competent Authority for hearing Application No. 19 of 2015 afresh on its own merits and in accordance with law.

7. Respondent No.1 undertakes to implead the Petitioners as party Respondents in the said Application. The appropriate application to that effect may be made before the Competent Authority.

8. The Competent Authority is requested to decide the application expeditiously and in any case within a period of 4 months from 18/01/2021 on which date learned Counsel for Respondent No.1 assures that this order will be intimated to the Competent Authority.

9. Writ Petition is disposed of.

(M.S.KARNIK, J.)

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