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

WRIT PETITION NO. 4687 OF 2021

Ganesh Vishal Infra Engineering Private Limited Petitioner
Vs.
The Competent Authority and District
Deputy Registrar of Co-operative
Society - III and ors. ...Respondents

Mr.Gautam Ankhad a/w Mr.Viral Dilip Shukla and Mrs.Priti Viral Shukla i/b M/s.Shukla & Associates, for the Petitioner.
Smt. M.S.Bane, AGP for the Respondent No.1 – State.
Mr.Rakesh K. Agrawal i/b Khwaja Tabrej, for Respondent No.2.
Mr.Jaideep Mitra i/b Mr.Dattatray Adarkar, for Intervener - Respondent No.26.

CORAM : M. S.KARNIK, J.

DATE : 26th AUGUST, 2021

P.C. :

. Heard learned Counsel for the Petitioner, learned Counsel for Respondent No.2 and learned Counsel for Respondent No. 26. The Petitioner is one of the Respondents in the proceedings filed by Respondent No.1 under the provisions of Maharashtra Ownership of Flats (Regulation of Promotion of Construction, Sale, Management and Transfer) Act, 1963. The Petitioner claims to be the owner of the city survey No. 167/3.

An order of deemed conveyance came to be passed in favour of the Respondent No.1 – Society by order dated 10/09/2020. The deemed conveyance was in respect of the plots of land mentioned in the order.

2. Respondent No.1 therefore filed an Application No. 115 of 2019 for some modification contending that there are some typographical mistakes in mentioning of the plot numbers in the order of deemed conveyance. It is the contention of the learned Counsel for the Petitioner that though the Petitioner was very much party respondent to the deemed conveyance application, before issuing the impugned corrigendum, no notice was issued to the Petitioner. According to learned Counsel, corrigendum is issued behind the back of the Petitioner. He submits that the corrigendum came to be issued on an application moved by the Respondent No.1, and therefore it was necessary for Respondent No.1 to have served a copy of the application on Petitioner. Learned Counsel submitted that by the issuance of the corrigendum, several plot numbers have been added or substituted. In respect of the RG-1 which is shown in the map produced today, a part of RG-1 has been included in the said corrigendum. It is his submission that the Petitioner has 15% interest in RG-1 and therefore even otherwise, it was

necessary for the Competent Authority to have heard the Petitioner.

3. Learned Counsel for Respondent No.1 - Society on the other hand supported the impugned corrigendum. He submits that the Petitioner is only concerned with the city survey No. 167/3 and he is not at all affected by issuance of the corrigendum. In fact, according to him, the Petitioner has no locus to challenge the corrigendum as what has been done by the corrigendum is only to correct the typographical mistakes which had occurred while mentioning the numbers of the plots. Learned Counsel therefore submits that there is no prejudice whatsoever caused to the Petitioner pursuant to the issuance of the corrigendum. Learned Counsel further submitted that on the basis of the corrigendum, the Society has paid necessary stamp duty for registration. Therefore extreme prejudice will be caused to the Respondent No.1, if corrigendum is not sustained.

4. In my opinion, though the impugned order is termed as a corrigendum, reading of the impugned corrigendum will indicate that several plot numbers have been incorporated in place of the plot numbers where were earlier part of the deemed conveyance granted by the Competent Authority. The Petitioner

was party Respondent No. 15 to the deemed conveyance application and even filed his response. In this view of the matter, in my opinion, it was necessary for the Competent Authority to have heard the Petitioner as well, as in my opinion, the contention of the Petitioner that he has interest in RG-1 which is also affected by the corrigendum needs to be dealt with. Only on the ground that the Petitioner is not heard, the impugned corrigendum is set aside. The parties to appear before the Competent Authority on 31/08/2021 at 11.00 a.m.. The Competent Authority to hear the parties afresh and pass a fresh order after hearing all concerned. The Petitioner undertakes to appear before the Competent Authority and co-operate with the hearing. The Competent Authority is requested to decide the application for issuance of the corrigendum on its own merits and in accordance with law within a period of 4 weeks from 31/08/2021.

5. Since I am interfering only with the order by which the corrigendum is issued by the Competent Authority, it is open for the Petitioner to avail of appropriate remedies challenging the order, if adverse to the Petitioner and even the order of deemed conveyance before the appropriate forum on its own merits and in accordance with law. Keeping all contentions open, Petition is

disposed of. The impugned corrigendum is set aside. Respondent No.1 has already paid stamp duty pursuant to the issuance of the corrigendum. The registration may proceed, but the same shall be subject to decision of the application before the Competent Authority or further orders of the competent forum.

6. Writ Petition is disposed of.

(M.S.KARNIK, J.)