

Bhogale

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

WRIT PETITION NO. 102 OF 2019

Orbit Heights A-Wing Co-operative Housing
Society & anr. .. Petitioners

Vs.

District Deputy Registrar of Co-operative
Societies (I), Authority & ors. .. Respondents

Mr. Bhupesh Dhumatkar I/b. Ms. Ankita Phadke for the
Petitioners.

Mr. Vipul J. Shah for Respondent No.2.

Mr. A.K. Kocharekar for Respondent No.6.

Mr. S.H. Kankal, AGP for the State.

CORAM : M.S.KARNIK, J.

DATE : FEBRUARY 5, 2021

P.C.:-

Heard learned counsel for the parties.

2. The Petitioners challenges the order passed by the competent authority under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ('MOFA' for short) granting deemed conveyance to the Respondent No.2-Orbit Heights Tower Co-operative Housing Society Limited. In the submission of learned counsel for the Petitioners the said order has been

passed without considering the interest of the Petitioners. He invited my attention to the impugned order wherein specific objection is raised. So far as the suit property is concerned, there are three buildings constructed viz. Orbit Heights Rehab-I, Orbit Heights Rehab-II and Orbit Heights. So far as the Respondent No.2-Society is concerned there was an agreement with the flat purchasers and this building comprised of the sale component. In the light of the agreement Respondent No.2 had applied for deemed conveyance which came to be granted in their favour by the impugned order.

3. The building of the Petitioners viz. the second building has been constructed. So far as the Respondent No.6 is concerned which is the third building the same too has been duly constructed.

4. Learned counsel says that the Respondent No.2 has no objection for the Petitioners and the Respondent No.6 to apply for deemed conveyance in so far as their agreements are concerned. In any case learned counsel for the Respondent No.2 says that the Respondent No.2 is claiming interest only in terms of the agreement which the flat purchasers of the said building entered into with the builders and their agreement nothing to do with

that of the Petitioner as well as Respondent No.6. It is not as if under the deemed conveyance something more than what has been provided for in the agreement has been granted to the Respondent No.2.

5. In this view of the matter, the Petitioners as well as Respondent No.6 are always at a liberty to approach the competent authority for getting the deemed conveyance in their favour on the strength of their respective agreements. The Respondent No.2 does not dispute the agreement which the flat purchasers have with the builders in so far as the occupants of the Petitioners as well as the Respondent No.6 building are concerned and that the buildings have been constructed.

6. The Petitioner as well as Respondent No.2 are at liberty to adopt any other appropriate remedy available in case of dispute in addition to the one provided under MOFA for deemed conveyance. All contentions are kept open.

7. In this view of the matter as the deemed conveyance is granted to Respondent No.2 on the strength of the agreement with the flat purchasers of Respondent No.2 building, as the rights of the Petitioners as well as the Respondent No.6 are

governed by their respective agreements, I see no reason to interfere with the said order.

8. The Writ Petition is disposed of.

(M.S.KARNIK, J.)

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