

Urmila Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 812 OF 2021

Ajit Rajanikant Ghone and ors.Petitioners
Vs.
State of Maharashtra and ors. Respondents

Mr.R.A. Shaikh i/b Ms.Savita Malkampate a/w Ms.Usha S.
Agarwal , for the Petitioners.
Mr.Rajiv Mane, for Respondents No. 1 & 2.
Mr.Tatsat Gor i/b One Legal Bay LLP, for Respondent No.3.

CORAM : M. S.KARNIK, J.

DATE : 16th JULY, 2021

P.C. :

. Heard learned Counsel for the Petitioners. Present
Petition is filed challenging the order passed by the Competent
Authority under the Maharashtra Ownership Flats (Regulation
Promotion of Construction, Sale, Management & Transfer) Act,
1963 by the Petitioners at the instance of the members of the
Society. The flat purchasers had filed an application for deemed
conveyance before the Competent Authority on the basis of the
flat purchasers agreement. It is the contention of the Petitioners
that Respondent No.3 - Society is not taking any steps to

challenge the order passed by the Competent Authority and hence, they had to file the present Petition. It is the case of the Petitioners that though flat purchasers agreement provided for larger area, the Competent Authority has granted deemed conveyance of lesser area after taking into consideration some encroachment made. According to the Petitioners, the Competent Authority did not have jurisdiction to take into consideration the encroached portion while passing the order granting deemed conveyance and in fact deemed conveyance ought to have been on the basis of the area mentioned in the flat purchasers agreement.

2. Learned Counsel for Respondent No.3 appearing on behalf of the Society, after obtaining instructions, submits that within a period of 4 weeks from today, Society will file appropriate proceedings challenging the impugned order or take steps for recalling the order of the Competent Authority. In this view of the matter, the Petitioner members can now pursue the matter through the Society which was party Respondent in the proceedings before the Competent Authority which is the appropriate Court. Keeping all the contentions open, the Petition is disposed of recording the statement made on behalf of Respondent No.3 that the appropriate proceedings challenging

the order impugned in this Petition or take steps for recalling the order of the Competent Authority would be filed within 4 weeks from today. If such steps are not taken within 4 weeks from today, liberty is granted to the Petitioners to seek revival of this Petition. All contentions are kept open. The Petition is disposed of. For a period of 4 weeks from today, ad-interim relief granted earlier by this Court to continue.

3. The Writ Petition is disposed of.

(M.S.KARNIK, J.)