

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

**INTERIM APPLICATION NO. 2555 OF 2021
IN
SECOND APPEAL NO. 734 OF 2004**

Madhudeep Co-operative Housing Society
Ltd.

.... Applicant

In the matter between :-

Smt. Saraswati Eknath Gaikwad (since
deceased through legal heirs) :

Seema Rajendra Pawar (since deceased) :

Rajendra Shivkumar Pawar and ors.

.... Appellants

v/s.

Madhudeep Co-operative Housing Society
Ltd. and anr.

.... Respondents

Mr. K.K. Malpathak for the Applicants in IA/2555/2021
and for Respondent No.2 in SA.

Mr. Prakash G. Lad a/w. Ms. Sayli Apte for the original
Appellant in FA & for Respondent in IA/2555/2021.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 04th MARCH, 2022.

P. C. :-

. This is an Application filed by the Respondent seeking permission to proceed with the Application No.164 of 2021 before the Competent Authority and District Deputy Registrar Co-operative Societies, Thane in respect of the proceedings for deemed conveyance under Section 11 of the MOFA.

2. Heard learned counsel for the respective parties and perused the records.

3. The Appellant herein, the owner of the suit property had filed a suit for cancellation of agreements executed in favour of the Applicant and Respondent No.2. The First Appellate Court has set aside the judgment whereby the trial court had cancelled the agreements and further directed the Applicant to pay the balance consideration with interest. This judgment has been challenged in the Second Appeal. In an application for interim relief filed by the Respondent this Court by order dated 14/07/2006 had restrained the Society from creating third party interest without prior permission of this Court. The Appellant-Society had filed another Application for interim relief. By order dated 28/02/2008, this Court rejected prayers (a) to (c) and had further held that order dated 14/07/2006 needs no modification as the said order does not prevent the individual members of the Society from transferring their membership or alienating their respective flats.

4. The records indicate that the Respondent No.1-Applicant had filed yet another application seeking permission to carry out essential repairs, which was allowed by this Court vide order dated 26/04/2012.

5. By the present application the Applicant -Respondent No.1 seeks permission to proceed with the proceedings pending before the Competent Authority. As stated earlier, the only restrain imposed by this Court is in respect of alienation of property without prior permission of the Court. Apart from this there is no other restrain and the Court is not required to explain the order time and again.

6. The Interim Application is therefore dismissed.

7. Since the Appeal is of the year 2004, the same be listed on final hearing board in the week commencing from **04/04/2022**.

PREETI
H JAYANI

Digitally signed by
PREETI H JAYANI
Date: 2022.03.17
20:15:03 +0530

(SMT. ANUJA PRABHUDESSAI, J.)