

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

**WRIT PETITION NO.2996 OF 2020
WITH
WRIT PETITION NO.3230 OF 2020**

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2022.07.19
10:03:05
+0530

Vrindavan Heights Co-operative Hsg.
Soc. Ltd.

..Petitioner

Versus

Competent Authority & District Deputy
Registrar, Co-operative Societies & Ors.

..Respondents

Mr. Mandar Limaye, for the Petitioner.

Mr. C. D. Mali, AGP for the Respondent No.1 in WP
No.2996/2020.

Mr. P. P. Pujari, AGP for the Respondent No.1 in WP
No.3230/2020.

CORAM : NITIN W. SAMBRE, J.

DATE : 13th JULY, 2022

P.C.

1. Since both these petitions involve common question of facts and law, by consent same are heard together.

2. For the sake of convenience, facts in Writ Petition No. 2996 of 2020 are taken into consideration.

3. Though served none appears for respondent Nos.2 and 3.

4. The order impugned is dated 17th May, 2019, whereby deemed conveyance pursuant to the provisions of Sections 5A and 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as “the MOFA Act” for the sake of brevity) is granted in favour of the petitioner society to the extent of land 1195 sq.mtrs. It is the case of the petitioner that the developer has purchased the TDR, however, the deemed conveyance in regard to the same is not granted by the officer that too without recording any reasons.

5. He has drawn support from the Government Resolution dated 22nd June, 2018, particularly, clause (B) and (ii). Said clauses read thus :-

“(B)A procedure to be adopted in respect of issuing Deemed Conveyance Certificate by the District Dy. Registrar, Co-operative Societies/Jt. Registrar, Co-operative Societies (CIDCO) and Competent Authority:-

A Competent Authority first ensured that the documents mentioned in above mentioned (A) are attached with the application and there after action should be taken as follow.

- i)
- ii) After ensuring that documents are attached as above, a hearing notice according to MOFA

Act, 1960 and Rule 13(2) of Rules, 1964 should be issued to all concerned parties.”

6. In the aforesaid background, the petitioner is permitted to approach the competent authority seeking correction to the extent of addition of TDR and open area appertaining the building based on the aforesaid Government Resolution dated 22nd June, 2018. This Court expects the said authority to deal with such prayer of the petitioner expeditiously and in any case within period of eight weeks from the date of appearance of the petitioner.

7. This Court expects the authority to be sensitive to the scheme of Government Resolution dated 22nd June, 2018.

8. As such, both these petitions stand partly allowed.

[NITIN W. SAMBRE, J.]