

Urmila Ingale

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

WRIT PETITION NO. 3986 OF 2022

Shrenik Kundanmal Shah and ors. ..Petitioners
vs.
Shah Industrial Premises
Co-operative Society Limited and ors. ..Respondents

Ms. Gauri Joshi i/b Ganesh & Co., for petitioners.
Mr. Durgesh Rege i/b Lex Firmus, for Respondent No.1.
Mr. Kedar Dighe, AGP for Respondents No. 2 and 3.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 6, 2022

P.C. :

1. Heard learned counsel for the petitioners. The impugned order granting deemed conveyance under the provisions of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 is passed on 04/08/2020. It is the contention of the learned counsel for the petitioners-owner that the petitioners were not given adequate opportunity to represent their case before the competent authority. It is pointed out that the application

for grant of deemed conveyance was filed on 21/07/2020 by respondent no. 1-Society. Thereafter notice came to be issued on 30/07/2020. The petitioners received the notice on 03/08/2020. Vide application dated 04/08/2020, the petitioners requested for time to obtain relevant documents pertaining to said property in question and for engaging advocate to represent the petitioners. The impugned order was passed on 04/08/2020. It is not in dispute that such an application was in fact made to the competent authority on 04/08/2020 for adjournment. From the record, it appears that 04/08/2020 was the date fixed for appearance of the petitioners pursuant to the issuance of the notice. It is obvious that adequate opportunity of making an effective representation to the competent authority was not given to the petitioners.

2. Learned counsel for the respondent no. 1 and learned AGP supported the impugned order. However, I find that sufficient opportunity was not given to the petitioners to represent their case. The impugned order therefore deserves to be set aside.

- 3.** The impugned order is therefore set aside. The matter is remitted back to the competent authority.
- 4.** The parties to appear before the competent authority on 17/10/2022 at 11.00 a.m.
- 5.** The competent authority is requested to decide the application on its own merits expeditiously and preferably within a period of 12 weeks from 17/10/2022.
- 6.** All contentions of both parties are kept open.
- 7.** It is made clear that the petitioners will appear on 17/10/2022 and no further notice is required to be issued by the competent authority.
- 8.** The writ petition is disposed of in the above terms.

(M. S. KARNIK, J.)