

Urmila Ingale

URMILA
PRAMOD
INGALE

Digitally signed
by URMILA
PRAMOD
INGALE
Date:
2022.09.23
19:17:55 +0530

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

**WRIT PETITION NO. 2695 OF 2021
WITH
THIRD PARTY APPLICATION FOR C.C.(L) NO. 21939
OF 2021**

Mahant Madhavdas Mahatyagi ..Petitioner
vs.
State of Maharashtra and ors. ..Respondents

Mr. Mayur Khandeparkar a/w Mrs. Leena Shah i/b Shah &
Furia Associates, for petitioner.
Mr. L.T. Satelkar, AGP for Respondent No. 1.
Mr. Pradip Thorat, for Respondent No. 2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 22, 2022

P.C. :

1. Heard Mr. Khandeparkar, learned counsel for the petitioner and Mr. Thorat, learned counsel appearing for the respondent no. 2 – Society who contested the writ petition.
2. After the matter was argued for some time, it was noticed that though the architect's certificate relied upon by the respondent-Society at page 274 of the paperbook is relied upon by the competent authority, there is no

reference to the architect's certificate relied by the petitioner which is at page 283 and that the same appears not to have been taken into consideration by the competent authority. There is no reference to such architect's certificate in the findings.

3. Learned counsel Mr. Thorat submitted that the competent authority has taken into consideration clause 6 of the Maharashtra Ownership Flats Act, 1963 and in terms of the said agreement, the deemed conveyance is rightly granted. However, in all fairness, Mr. Thorat, on instructions, submitted that the matter can be remitted back to the competent authority for reconsideration of the application. Accordingly, by consent, the impugned order is set aside.

4. The application is remitted to the competent authority for a fresh decision on its own merits and in accordance with law.

5. The parties to appear before the competent authority on 28/10/2022 at 11.00 a.m.

6. The application to be decided by the competent

authority as expeditiously as possible and preferably, within a period of eight weeks from 28/10/2022 uninfluenced by any observations made by me in this order or in the impugned order.

7. I have not expressed any opinion on merits. All contentions are kept open.

8. The writ petition is disposed of. In view of the disposal of the writ petition, third party application also stands disposed of.

9. Writ Petition No. 2684 of 2021 to be detagged from this writ petition.

(M. S. KARNIK, J.)