

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5632 OF 2022

Sai Srushti Co-operative Housing Society Ltd ...Petitioner
Versus
The State of Maharashtra & others ...Respondents

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Mr. Yugal Anjana Bhatia a/w Mr. Haaris Koradia, for Petitioner.

Mr. G.J. Sabnis, for Respondent No.5.

Mr. P. P. Pujari, A.G.P., for Respondent Nos.1 & 2.

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CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 25, 2023

P.C.:

1. It appears that the total land admeasuring 1826.10 Sq. Meters consists of three buildings bearing wings 'A', 'B' & 'C'. The Society is formed in respect of flats constructed in wings A & B. It appears that the land owner/ developer has constructed two flats in wing 'C' and has kept both the flats to himself. In the society so formed by the flat purchasers of wings A & B, the Developer/Respondent No.5 has not been inducted as a member. Since the two flats constructed in wing 'C' are not part of the Society, the Competent Authority has granted deemed conveyance of land admeasuring 1323.98. Sq. Meters. The Society is aggrieved by the decision of the Competent Authority

dated 10 January 2020 to the extent of exclusion of the balance land from being conveyed to the Society.

2. After arguing the Petition for some time, the learned counsel for the Petitioner- Society would submit, after taking instructions from the office bearers of Society, who are present in the Court, that the Society is willing to induct the occupants of two flats in wing 'C', Shri. Pandurang Laxman Bhandari (Respondent No.5) as a member of the Society in respect of his two flats. This would solve the entire problem, which the society is currently facing. Once the Respondent No.5 is inducted as a member of the Society and all the buildings and flats constructed on the land would be covered by the membership of the Society and there would be no difficulty in the Society seeking deemed conveyance of the entire land admeasuring 1826.10 Sq. Meters.

3. The statement made on behalf of the Society for admitting Respondent No.5 as a member of the Society is accepted as an undertaking to the Court. The Society shall complete the necessary procedure and admit Respondent No.5 as its member within a period of four weeks from today.

4. In view of the fact that the flats constructed in Wing 'C' and occupied by Respondent No.5 are also brought within the ambit of

membership of the Society, the Society can file a fresh application for deemed conveyance seeking conveyance of the entire land admeasuring 1826.10 Sq. Meters. With a view to enable the Society to do so, the order passed by the Competent Authority dated 10 January 2020 deserves to be set aside.

5. Accordingly, the present Petition is partly allowed by setting aside order dated 10 January 2020 passed by the Competent Authority and granting liberty to the Society to file a fresh application for deemed conveyance after induction of Respondent No.5 as its member.

6. With the above directions, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)