

Anand

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

WRIT PETITION NO. 9091 OF 2023

Chandrakant Janardan Dhulekar & ors.

.Petitioners

Vs.

The District Deputy Registrar, Co-operative
Societies, Mumbai & ors.

.Respondents

Mr. Tushar Sonawane, Advocate, for the Petitioners
Ms. V. S. Nimbalkar, AGP, for the Respondent – State

CORAM : MADHAV J. JAMDAR, J.

DATE : 04.12.2023

P. C.

1. Heard Mr. Sonawane, learned counsel appearing for the Petitioners & Ms. Nimbalkar, learned AGP appearing for the Respondent – State.

2. The challenge in the present Writ Petition filed under Article 227 of the Constitution of India is to the legality and validity of the order dated 30.12.2021 passed by the District Deputy Registrar, Co-operative Society, Mumbai (1) City alias Competent Authority.

3. By the impugned order, Deemed Conveyance has been granted in favour of Respondent No. 2 – Society. The factual position, as reflected in the impugned order shows that the Agreements were executed with the purchasers of the flats in or

about 1983. The plans were sanctioned on 25.01.1979 and thereafter, Commencement Certificate was issued on 07.03.1983. Thereafter, Occupation Certificate has been received. The Petitioners are the legal heirs of the original owners. The original owners have executed the document on 23.06.1983 in favour of Respondent No. 3, who is the Developer. Thus, the original owners as well as Respondent No. 3 are the promoters, as contemplated under Section 2(C) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management And Transfer) Act, 1963. The Petitioners, who are the heirs of the original owners are also “the promoters”. Therefore, it is the statutory responsibility of the Respondent No. 3 - Developer as well as the owners and their heirs and legal representatives to execute the Conveyance Deed. It is settled legal position that the order granting Deemed Conveyance does not conclude the issue relating to the title. Thus, the Petitioner can always file a suit seeking appropriate relief. All the contentions on merits of all concerned in such suit, if filed, are expressly kept open.

4. Accordingly, no interference in the impugned order is warranted. The Writ Petition is dismissed with no order as to costs.

(MADHAV J. JAMDAR, J.)