

5 October 2023.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1687 OF 2020

D.N.V. Realty (A partnership
firm)

...Petitioner

V/s.

Elite Homes Co-op. Housing
Society Ltd. And anr.

..Respondents

Mr. Prasad Dani, Senior Advocate i/by. Mr. Hitesh Vyas, for the
Petitioner.

Mr. J.S. Kini a/w. Mr. Aum J. Kini, Ms. Sapna Krishnappa, Ms.
Pooja Singh, for Respondent No.1.

Ms. Vaishali Nimbalkar, for Respondent No.2.

CORAM : SANDEEP V. MARNE, J.

Dated : 5 October 2023.

P.C. :

1. It appears that the Plaintiff has already instituted Regular Civil Suit No. 53/2020 in the Court of Civil Judge Junior Division, Pimpri for various reliefs including the relief of challenging the Certificate of deemed conveyance dated 4 January 2020, which is the subject matter of challenge in the present petition as well. Since the Petitioner has already filed a civil suit questioning the right of

the Society to get the deemed conveyance as well as the area which is sought to be conveyed in favour of the Society by virtue of the order of deemed conveyance, all the rights and contentions between the parties would be determined in that civil suit. It must also be observed that this Court has repeatedly held that the order of deemed conveyance would not be determinative of the final adjudication of the rights and entitlement of the parties. Reference in this regard can be made to the judgments of this Court in (i) *Mazda Construction Company and Ors V/s. Sultanabaad Darshan Co-operative Housing Society*, 2012 SCC Online Bom 1266, (ii) *ACME Enterprises and Another V/s. Deputy Registrar, Co-operative Societies and Ors*, 2023 4 AIR Bom.R. 817 and (iii) *Tirupati Shopping Centre Premises Co-operative Society Ltd. V/s. Shabayesha Construction Company Pvt. Ltd.* (2021) 6 Mh.L.J. 557.

2. In that view of the matter, the Writ Petition is **disposed of** leaving all the contentions raised therein open to be raised and decided in the Regular Civil Suit No.53/2020. The interim order passed by this Court on 25 February 2020 shall continue to operate for a period of four weeks with a view to enable the Petitioner to apply before the Trial Court for grant of necessary interim orders.

SANDEEP V. MARNE, J.