

Arjun

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

WRIT PETITION NO.1923 OF 2023

Bombay Gowrakshak Mandali
A public charitable trust,
Through its trustees
1. Haridas Tricumdas Kapadia & Ors.

...Petitioners

V/s.

Mangal CHS Ltd. & Ors.

...Respondents

Mr. Swanand Ganoo a/w Ms. Kirtida Chandarana & Mr. Naozad Golwala i/b Mr. Mahernosh Humranwala, for the Petitioners.

Mr. Dhaval A. Patil i/b M/s. K. Ashar & Co., for Respondent No.1.

Ms. Vishaki Bhatia, for Respondent No.7.

Mr. S. D. Rayrikar, AGP, for the Respondent No.8 & 9-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : AUGUST 29, 2023**

P.C.:

- 1.** Heard learned counsel appearing for the Petitioners.
- 2.** By the present Writ Petition challenge is to the legality and validity of the order dated 12th October 2022 passed by the Competent Authority @ the District Deputy Registrar, Co-operative Societies-4, Mumbai in Application No.210 of 2022. The said Application No.210 of 2022 was filed by the Respondent No.1-

Society under Section 11 of the The Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as “**the said Act**”) seeking deemed conveyance. By the impugned order, the learned Competent Authority has granted the said Application. Learned counsel appearing for Respondent No.1-Society states that the said deemed conveyance is also registered.

3. In the present case, the Respondent No.1-Society is registered on 22nd November 1999. The flats were purchased by the respective purchasers in or about 1977. By lease deed dated 1st July 1947, the Petitioners have granted lease for a period of 999 years and, thereafter, the building was constructed and the occupation certificate of the said building has been issued in February 1979. The members of the Respondent No.1-Society are occupying the premises in the building since 1979.

4. It is admitted position that the Respondent No.1-Society has gone for redevelopment as the building has become dilapidated and the same is demolished. Therefore, there is no substance in the present Writ Petition.

5. It is settled legal position that the order granting deemed conveyance does not conclude issue of right, title and interest in the immovable property. It has been held that the enquiry which is contemplated under Section 11 of the said Act is limited. The

Competent Authority cannot delve into the aspect of the title. The Competent Authority has only to satisfy whether the conditions stipulated in enforcement of the obligation to execute the conveyance have been satisfied and if, the Competent Authority is satisfied about the said aspect, order of unilateral deemed conveyance can be issued.

6. However, it is clarified that the impugned order passed granting deemed conveyance will not come in the way of the Petitioners filing suit for establishing title to the suit property. It is made clear that if, the said suit is filed, the same shall be decided on its own merits and in accordance with law and without being influenced by any of the observations made in the order passed by the Competent Authority as well as in this order. All the contentions of both the parties on merits are expressly kept open.

7. Accordingly, the Writ Petition is dismissed subject to above.

[MADHAV J. JAMDAR, J.]