

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3241 OF 2019~~Nereus Manuel Rodrigues~~

(Since deceased) Through her legal heirs

Sunil F. Rodrigues and Ors.

.. Petitioners

Versus

Sulochana Co-Op. Housing Society Ltd. and Ors. .. Respondents

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- Mr. Aseem Naphade a/w. Mr. Subhash Bane and Ms. Kajol Agawane i/by S.B.Legal for Petitioners
 - Mr. Nilesh R. Modi a/w. Mr. B. N. Jadhav i/by Rustamji & Ginwala for Respondent No.1
 - Mr. P. P. Pujari, AGP for State – Respondent No.9
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 09, 2023.

P.C.:

1. On 07.01.2023 this Court has passed the following order:

“Heard Mr. Naphade, learned Advocate for Petitioners; Mr. Jadhav, learned Advocate for Respondent No.1 and Mr. Pujari, learned AGP for State.

2. Record indicates that four out of the several land owners claiming entitlement to land have taken the objection in the present case and filed the present Petition in respect of grant of Deemed Conveyance to Respondent No.1 – Society.

3. Admittedly Respondent No.1 – Society was constructed in the year 1984 and has been in existence since then. Perusal of P. R. Card clearly reveals that apart from the four Petitioners there are several other family members whose names appear therein belonging to the Rodrigues family. Prima facie I do not find any substance in the argument of the Petitioner for entitlement after such a gross delay. Admittedly their predecessor-in-title has entered into Development Agreement and the development took place in the eighties. However, Mr. Naphade fairly submits that the Petitioners have not filed any substantive suit proceedings in the Civil Court as yet.

4. To enable Mr. Naphade to get instructions, stand over to 09th January, 2023 for passing orders.”

2. Mr. Naphade, learned Advocate for Petitioners at the outset on instructions seeks to withdraw the Petition with liberty to the Petitioners to take out appropriate proceedings in the appropriate Civil Court of Original Jurisdiction as available to them in accordance with law.
3. Mr. Jadhav, learned Advocate for Respondent No.1 submits that all contentions of the parties in that case be kept expressly open. Suggestion made by both the Advocates are fair.
4. Writ Petition No. 3241 of 2019 is allowed to be withdrawn with the aforementioned liberty.
5. All contentions of the parties are expressly kept open.
6. In view of the order dated 20.03.2019 granting stay to the Petitioners, the same shall continue for the further period of six weeks from today to enable the parties to take out appropriate proceedings.
7. The learned Trial Court shall not be influenced by any observations made in the order dated 07.01.2023 as well as today's order.
8. Writ Petition disposed.

[MILIND N. JADHAV, J.]

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