

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

WRIT PETITION NO.1698 OF 2016

Sunshine Villas Co-operative Housing Society ... Petitioners

Versus

The Competent Authority and
District Deputy Registrar, Co-operative
Societies, Pune & Ors.

... Respondents

...

Mr. Suhas B. Rohile, for Petitioner.

Ms. M. S. Bane, AGP for Respondent No.1 -State.

...

CORAM : SANDEEP V. MARNE, J.

DATE : 03 NOVEMBER 2023.

P. C.:

The challenge in the present petition is to the Order dated 11 August 2014 passed by the Competent Authority and the District Deputy Registrar, Co-operative Societies, Pune granting unilateral deemed conveyance of land admeasuring 15227.68 sq mtr. and constructed portion admeasuring 13983.39 sq. mtr. in favour of the Petitioner-Society. Additionally the Competent Authority has also granted undivided share in open land, internal roads and transformer area.

2. Perusal of the Order passed by the Competent Authority would indicate that the total area of the land is 26900 sq. mtr.. The Competent Authority has deducted area of 259.70 sq. mtr. towards open place, area of 1707.85 sq. mtr. for the building of Sunshine Villa's Association, area of 1132.44 sq. mtr. for building of Ganesh Sunshine Society, area 80.66 sq. mtr. for transformer, area of 912.96 sq. mtr. for HCTMTR and area of 544.00 sq. mtr. for clubhouse and area of 4645.71 sq. mtr. for internal road. The balance land admeasuring 15227.68 sq. mtr. out of which constructed portion of 13983.39 sq. mtr. is conveyed to the Society.

3. I do not find any patent error in the Order passed by the Competent Authority. Learned counsel for Petitioner would submit that developer has illegally constructed additional building by obtaining development permission without consent of the Petitioner-Society and on the open spaces meant for the Petitioner-Society. If indeed the developer has carried out any unauthorized or undue construction, it is open for the Petitioner-Society to take necessary steps by filing a suit claiming right, title and interest in area excess to what is conveyed by certificate of deemed conveyance. By now it is well settled law that certificate of deemed conveyance is not determinative of right, title or interest of parties in land in question. The party aggrieved by the area of land conveyed under the deemed conveyance can always file a suit to claim excess area than the one conveyed under the certificate. Accordingly if Petitioner-Society believes that it is entitled to conveyance

of additional area, it will have to file suit for claiming the said relief. Reserving that liberty in favour of the Petitioner-Society, present petition is disposed of.

SANDEEP V. MARNE, J.

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