

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2328 OF 2022

Gulshan Construction Company
Through Partners Shamsuddin
Gulab Mistry, Decd. Through
Legal Heirs

....Petitioners

V/s.

Bharat Ramjeevan Mishara and anr.

....Respondents

--

Mr. Rohit D. Joshi, for the Petitioner.

Smt. Vaishali S. Nimbalkar, AGP for the State.

CORAM : SANDEEP V. MARNE, J.

Dated : August 21, 2023.

P.C. :

1. Heard Mr. Joshi, the learned Counsel for Petitioner.
2. Challenge in the present petition is to the order dated 31 March 2021 passed by the Competent Authority-cum-District Deputy Registrar of Co-operative Societies, Raigad, Alibaug by which direction was given for registration of the Co-operative Society of flat purchasers. Mr. Joshi, learned counsel appearing for the Petitioners does not dispute the position that all the sixteen flats constructed by the Petitioners have been sold. That there are no

unsold flats in the building. The only objection raised by Mr. Joshi to the impugned order is the unconsumed FSI belonging to the Petitioners. He would submit that since the Petitioners are entitled to unconsumed FSI, they ought to have been included as Members in the Co-operative Society.

3. It is admitted position that there are no unsold flats in the building, which are held by the Petitioners-Developer. In respect of the alleged unconsumed FSI, the Petitioners can contest the same as and when the Society demands conveyance/deemed conveyance. Any unconsumed FSI allegedly remaining in favour of the Petitioners, cannot entitle them to become Members of the Co-operative Society of the Flat purchasers. I do not find any infirmity in the impugned order. Writ Petition being devoid of merits is **dismissed**.

4. It is clarified that nothing observed in the present order will affect the rights and contentions of the parties in proceedings filed or to be filed for grant of deemed conveyance.

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SANDEEP V. MARNE, J.