

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13427 OF 2022

Smt. Khatija Abdul Rahim Patel & Ors.

...Petitioners

Versus

Srushti Co-operative Housing Society Ltd.

Through Its Chairman & Ors.

...Respondents

...

Mr. Vinayak Kumbhar i/by Ms. Ashwini Bandiwadekar, for Petitioners.

Mr. Suryajeet P. Chavan, for Respondent No.1.

Mr. Mayank Tripathi i/by Ms. Preeti Walimbe for Respondent No.2.

Mr. S.D. Rayrikar, A.G.P. for Respondent.

...

CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 17, 2023.

P.C.:

1. The challenge in the present Petition is to the order dated 31 March 2020 passed by the Competent Authority cum District Deputy Registrar Co-operative Societies, Raigad-Alibaug granting unilateral deemed conveyance in respect of land admeasuring 686.62 Sq. mtrs. in favour of the Respondent-Society.

2. I have heard Mr. Kumbhar, the learned counsel appearing for the Petitioners and Mr. Chavan, the learned counsel appearing for Respondent No.1-Society as well as Mr. Tripathi, the learned counsel appearing for Respondent No.2.

3. It appears that the present petition is filed on behalf of the owners, who had filed written reply dated 15 January 2020 before the Competent Authority. I have gone through the said reply. In their reply Petitioners vaguely contended that there was some balance FSI on the plot, which the Petitioners will not be in a position to utilize if deemed conveyance of land is granted. Another grievance raised by the Petitioners in their reply was about registration of society of Respondent No.1 in a different name than the one agreed in the agreement.

4. To my mind both the objections raised by the Petitioners for opposing the issuance of certificate of unilateral deemed conveyance are totally misplaced. So far as the ground of utilization of balance FSI is concerned, no attempt is made by the Petitioners to demonstrate as to how conveyance of land admeasuring 686.62 Sq. mtrs. would come in the way of Petitioners utilizing the alleged balance FSI. Petitioners ought to have produced some material before the Competent Authority to demonstrate that such additional FSI flows out of the land admeasuring 686.62 Sq. mtrs. or that they have a right to carry out any construction on land admeasuring 686.62 Sq. mtrs. So far as registration of Society in a different name than the one specified in the agreement is concerned, the same cannot be a ground for refusal of certificate

of unilateral deemed conveyance.

5. In order dated 31 March 2020, the Competent Authority has clearly directed that if any right is established in the conveyed land in future, it would be incumbent upon the Society to handover such land regardless of issuance certificate of deemed conveyance. It is also well established position of law that unilateral deemed conveyance certificate is not determinative of rights and entitlements of parties to the land in question. Reference in this regard can be made to the Judgments of this Court in **Mazda Construction Company & Others Vs. Sultanabad Darshan CHS Ltd. & Others¹** & **Tirupati Shopping Centre Vs. Shabyesha Construction Company.²**

6. Thus, if the Petitioners have any grievance with regard to the area of land which is conveyed by the impugned order dated 31 March 2020, they have remedy of filing a suit to claim ownership and possession in respect of such land. Reserving the liberty in favour of the Petitioners to initiate civil proceedings, the Writ Petition is disposed of without any order as to costs.

(SANDEEP V. MARNE, J.)

1 2012 SCC Online Bom 1266

2 2021 AIR (Bom) 263