

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8881 OF 2018
WITH
INTERIM APPLICATION NO. 17048 OF 2023**

Harkisandas Trambaklal Mehta

...Petitioner

V/s.

Vallabh Bhuvan Co-op. Hsg. Soc.

Ltd. And Ors.

....Respondents

Mr. Pankaj S. Shah, for the Petitioner.

Mr. Ashutosh R. Gole, for Respondent No.1.

CORAM : SANDEEP V. MARNE, J.

Dated : 7 November 2023.

P.C. :

1. The challenge in the present petition is to the order dated 15 May 2018 passed by the District Deputy Registrar, Co-operative Societies (3), Mumbai and Competent Authority granting Certificate of unilateral deemed conveyance under Section 11(3) of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, sale, Management and Transfer) Act, 1963.

2. I have heard Mr. Shah, the learned counsel appearing for the Petitioner and Mr. Gole, learned counsel appearing for Respondent No.1-Society.

3. Perusal of the reply filed by the Petitioners before the Competent Authority to oppose the application for issuance of certificate of deemed conveyance would indicate that except raising vague objections such as lack of *locus-standi*, failure to produce accompanying documents, failure to file draft conveyance deed, issuance of public notice in Marathi etc. no substantive objection is raised to the application filed by the Society for issuance of Certificate of deemed conveyance. The real purpose behind opposing the application filed by the society for deemed conveyance is apparent from contents of para-8 of the reply in which Petitioners admit that they want to carry out further construction (floors over the existing building by using TDR). The Competent Authority has considered the fact that the Occupancy Certificate for the building is issued on 13 February 1982 and the Society is registered on 3 September 1985. Petitioner not just failed to convey the land to the Society for the last 38 long years but now wants to put additional floors on the building. Infact, the provision for unilateral deemed conveyance is enacted to tackle the situation as it exists in the present case where owner/developer has not only failed to convey the land for substantial period of time but is expecting further profits from the project by constructing additional floors by using TDR. Issuance of Certificate

of Deemed Conveyance would in fact arrest such tendency of owner/developer.

4. I therefore find that the Petitioner has not been able to point out any patent error in the order passed by the Competent Authority granting unilateral deemed conveyance in favour of the Respondent-Society. I therefore do not find any merit in the petition. The Writ Petition is accordingly **rejected**.

5. With dismissal of the petition, the Interim Application does not survive. The same is accordingly disposed of.

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SANDEEP V. MARNE, J.