



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

WRIT PETITION NO. 8095 OF 2019

Harasiddh Builders & Developers Pvt. Ltd. & anr. .Petitioners

Vs.

The Competent Authority & Deputy Registrar .Respondents
Co-operative Societies & ors.

Mr. Rohan Savant a/w. Ms. Shamima Taly, Mr. Aziz Mohd., Sehyr Taly, Ms. Nikita Jadhav & Ms. Sanskruti Mahale i/b. S. Mahomedbhhai & Co., Advocate, for the Petitioners
Ms. V. S. Nimbalkar, AGP, for the Respondent No. 1 – State
Mr. Omar K. Shaikh, Advocate, for Respondent No. 2

CORAM : MADHAV J. JAMDAR, J.

DATE : 10.10.2023

P. C.

1. Heard Mr. Savant, learned counsel appearing for the Petitioners, Ms. Nimbalkar, learned AGP appearing for Respondent No. 1 – State and Mr. Shaikh, learned counsel appearing for Respondent No. 2.

2. The challenge in this Petition is to the order dated 10.06.2019 passed by the Competent Authority alias District Deputy Registrar Co-operative Societies(3), Mumbai of granting Deemed Conveyance passed under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of

Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as '**MOFA**') in Application No. 84 of 2018. Mr. Savant, Advocate has raised several contentions.

3. It is settled legal position that the order granting deemed conveyance does not conclude the issue of title. This Court in number of judgments and particularly in the case of *Mazda Construction Company v. Sultanabad Darshan Chs. Ltd.*, reported in *2013(2) ALL M. R. 278* has clarified that an order granting deemed conveyance will not conclude the issue of right, title and interest.

4. In view of the above legal position, Mr. Savant, learned counsel appearing for the Petitioners, on instructions, states that the Petitioners will file a separate suit.

5. Accordingly, the Writ Petition challenging the impugned order dated 10.06.2019 passed by the Competent Authority alias District Deputy Registrar Co-operative Societies(3), Mumbai is allowed to be withdrawn with liberty to file a suit. However, it is clarified that all the contentions on merits of the contesting parties are expressly kept open to be

agitated in the said suit.

6. At this stage, Mr. Savant, learned counsel appearing for the Petitioners states that as per the requirement of Section 11(5) of the MOFA, it is incumbent upon the Registrar to issue summons before registration of deemed conveyance. Mr. Shaikh, learned counsel appearing for Respondent No. 2 states that deemed conveyance will be registered as per the provisions of law. All the contentions in that behalf are also expressly kept open.

7. The Writ Petition is dismissed as withdrawn subject to above with no order as to costs.

(MADHAV J. JAMDAR, J.)