



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.265 OF 2022**

Ganesh Lakhaji Chudasama ... Petitioner
versus
The State of Maharashtra and Ors. ... Respondents
WITH
WRIT PETITION NO.12541 OF 2019

Ganesh Lakhaji Chudasama ... Petitioner
versus
The State of Maharashtra and Ors. ... Respondents

Mr Mayur Khandeparkar i/by Mr. Sanket Mungale for Petitioners in both Petitions.
Mr. S.D.Rayrikar, AGP for Respondent Nos.1, 2, 4 and 5 in WP 265 of 2022.
Mr. Shriram Kulkarni for Respondent No.3 in both Petitions.
Mr. Santosh Parad for Respondent Nos.6 and 7.
Mr. Ramaswami, Treasurer of Society present.

**CORAM: N.J.JAMADAR, J.
DATE : 30 MARCH 2023**

P.C.

1. Heard the learned Counsel for the parties.
2. In Writ Petition No.12541 of 2019, the challenge is to an order dated 13 December 2016 passed by the Deputy Registrar of Co-operative Societies, Mumbai Suburban District under Section 11 of the Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 granting deemed conveyance in respect of the property situated on the plot No.837, Amar Nagar, Darga Road, Mulund (W), Mumbai – 400 082 in favour of Respondent No.3 Society and the consequent registration of Deed of Conveyance dated 17 December SSP (corrected order as per Speaking to the Minutes of Order dated 6 July 2023)

2018.

3. In Writ Petition No.265 of 2022, the Petitioner assails the order dated 6 August 2020 whereby the initial order was modified and a Corrigendum was issued and the Deed of Rectification of Unilateral Deemed Conveyance dated 8 September 2020.

4. One of the principal grounds of challenge is not providing an effective opportunity of hearing to the Petitioner, in the sense that, the notice of the proceedings was not duly served on the Petitioner.

5. In the light of the aforesaid nature of the challenge, with the consent of the learned Counsel for the parties, the impugned orders dated 13 December 2016 and 6 August 2020 are quashed and set aside and the matter is remitted back to the Deputy Registrar, Co-op. Societies for deciding it afresh.

6. The learned Counsel for the Respondent No.3, on instructions from the Treasure of the Respondent No.3 Society who is present in Court, submits that in view of the deficiencies in the application for deemed conveyance preferred by the Respondent No.3, Respondent No.3 may be granted liberty to file a fresh application before the Deputy Registrar.

7. The learned Counsel for the Petitioner submits that the Petitioner has no objection to the said course of action.

8. In view of the above, the impugned orders dated 13 December 2016 and

6 August 2020 are hereby quashed and set aside. Consequently, the Deed of Conveyance registered on 17 December 2018 and Deed of Rectification of Unilateral Deed of Conveyance registered on 8 September 2020 also stand cancelled.

9. Respondent No.3 is permitted to withdraw the application preferred before the Deputy Registrar and granted liberty to file a fresh application for deemed conveyance under Section 11 of the Act of 1963 within a period of six weeks from today.

10. A copy of the application to be filed by the Respondent No.3 be served on the Petitioner on the address mentioned in the cause title of the Petition.

11. The Deputy Registrar shall decide the application which will be preferred by the Respondent No.3 after providing an effective opportunity of hearing to all the parties, as expeditiously as possible and preferably within a period of six weeks from the date given for the appearance of the Petitioner i.e. the developer, and the concerned parties.

12. By way of abundant caution, it is clarified that this Court has not entered into the merits of the matter and all contentions of all the parties are kept open for consideration by the Competent Authority.

13. The Writ Petitions accordingly stand disposed.

14. All pending Application(s) also stand(s) disposed.

(N.J.JAMADAR, J.)