

Santosh

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

WRIT PETITION NO. 12206 OF 2022

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Babaji Tatoba Kubal (deceased) through
LRs. Pravin Babaji Kubal ...Petitioner

Versus

The Competent Authority and District
Deputy Registrar, Co-op. Housing Societies
and ors. ...Respondents

AND

CONTEMPT PETITION NO. 343 OF 2023

IN

WRIT PETITION NO. 12206 OF 2022

Pravin Babaji Kubal ...Petitioner

Versus

The Competent Authority and District
Deputy Registrar, Co-op. Housing Societies
and ors. ...Respondents

Mr. Sandesh Deshpande, for the Petitioner.

Mrs. V. S. Nimbalkar, AGP for the State.

Mr. Zaman Ali, a/w Neil Pais, for Respondent No.2 in
WP/12206/2022.

CORAM: N. J. JAMADAR, J.

DATED : 27th JULY, 2023

Order:-

1. Heard the learned Counsel for the parties.
2. The petitioner assails an order passed by the District Deputy Registrar and Competent Authority under The Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("the

Act, 1963”), whereby an order of deemed conveyance under Section 11(3) of the Act, 1963 has been passed in favour of the respondent No.2 – Society.

3. From the perusal of the impugned order, it appears that respondent No.1 was impleaded as, “legal representatives of Babaji Tatoba Kubal”, without specifying as to who the legal representatives were. Thus, the question as to whether there was an effective opportunity of hearing to the legal representatives of late Babaji Tatoba Kubal arose for consideration.

4. The learned Counsel for the respondent – Society, upon consideration and on instructions, submits that the matter may be remitted back to the District Deputy Registrar and Competent Authority for afresh determination. However, the petitioner, who claims to be one of the legal representatives of Babaji Kubal, be ordered to furnish the names, addresses and other particulars of the other legal representatives of Babaji Kubal so as to implead them as respondents to the application.

5. In view of the aforesaid submissions, the impugned order stands quashed and set aside.

6. Application No.133/2021 for deemed conveyance stands remitted to the file of District Deputy Registrar and Competent Authority for afresh determination.
7. The petitioner shall furnish the names and addresses of the legal representatives of respondent Shri. Babaji Tatoba Kubal, to respondent No.2 Society within a period of two weeks.
8. The Competent Authority shall permit respondent No.2 Society – applicant in Application No.133/2021, to implead the legal representatives of Babaji Tatoba Kubal as party respondents to the application and issue notice to those legal representatives.
9. The Competent Authority shall also make an endeavour to decide the application as expeditiously as possible, after providing an effective opportunity of hearing to the parties, and, preferably, within a period of four months from the date of service of notice to the legal representatives of Babaji Tatoba Kubal.
10. This Court has not entered into the merits of the matter and the Competent Authority shall decide the same on its own merits and in accordance with law without being influenced by the observations made in the impugned order.

11. Needless to clarify that in view of the setting aside of the impugned order all consequential actions taken pursuant to the impugned order also stand quashed and set aside.

12. In view of the disposal of WP/12206/2022, the learned Counsel for the petitioner seeks leave to withdraw Contempt Petition No.343 of 2023.

13. Contempt Petition No.343 of 2023 stands disposed as withdrawn.

14. In view of disposal of the petitions, interim application(s), if any, also stand(s) disposed.

[N. J. JAMADAR, J.]