

Gujarbai Eknath Naik & Ors. ...Petitioners

Competent Authority/Deputy District Registrar Co-op. Department Palghar & Ors. ...Respondents

Mr. Suraj D. Gurav for Respondent No.2

CORAM: MADHAV J. JAMDAR, J.
DATE: 23rd August 2023

P.C.i:

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4. The impugned order shows that on 15th May 1995, by Indenture of Conveyance executed by the original owners, the property was conveyed in favour of Creative Builders. It appears that thereafter the rights were given to Respondent No. 4 i.e. Vinayak Developers.

5. The Respondent-Society is registered on 7th September 2012. The Society consists of 64 members. The construction permission was granted on 30th May 2006 and thereafter the construction was made and 64 members were handed over possession of respective flats and thereafter Society was formed. Therefore, there is no substance in the contention of the Petitioners that they were not aware about the said development.

6. In any case, the Competent Authority has granted deemed conveyance with respect to 1950.00 sq. mtrs. area as well as proportionate area in the open space road and other amenities. Therefore, there is no illegality in the order passed by the Competent Authority.

7. However, it is clarified that as held by this Court in **Mazda Construction Co. Vs. Sultanabad Darshan Co-op. Housing Society Limited**¹ as well as clarifications issued in **M/s Shree Chintamani Builders Vs. State of Maharashtra & Ors.**², the

¹ 2012 SCC Online Bom. 1266 [2013 (2) All MR 278]

² 2016 SCC Online Bombay 9343

order granting deemed conveyance will not conclude the issue of right, title and interest in immovable property and therefore the Petitioners are at liberty to file civil suit establishing his right to the property. It is clarified that such civil suit, if filed shall be decided on its own merits uninfluenced by the observations made in the impugned order of the Competent Authority or in this order. The contentions of all the concerned parties on merits are expressly kept open.

8. Accordingly, the Writ Petition is dismissed, subject to above clarifications, with no order as to costs.

(MADHAV J. JAMDAR, J.)