

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9654 OF 2023

Ganesh Lakhaji Chudasama

...Petitioner

Versus

The State of Maharashtra
Through AGP And Ors.

...Respondents

Mr. Mayur Khandeparkar a/w Mr. Aseem Naphade, Mr. Sanket Mungale, Mr. P. G. Chudasama, Mr. Sameer Salunke for the Petitioner.

Ms. V. S. Nimbalkar, AGP for Respondent No.1/State.

Mr. Adil Parasrampur a/w Mr. Jagannath S. Pawar, Mr. Santosh More for Respondent No.3.

Mr. R. Y. Sirsikar for Respondent Nos.7 to 8/MCGM.

CORAM : N.R. BORKAR, J.

DATED : 10 AUGUST 2023

PC. :

By the order impugned, the respondent No.2 – the District Deputy Registrar, Cooperative Societies, East Sub-urban, Mumbai has allowed the application filed by the respondent No.3- Society under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction Sale, Management and Transfer) Act, 1963

and granted Certificate of Unilateral Deemed Conveyance in respect of land ad-measuring 2602.50 Sq.Mtrs of CTS No.837 plus land area 61.87 Sq.Meter out of total land area 168.80 Sq. Meter of CTS No.839 i.e., total land area 2664.37 Sq. Mtrs, plus right on proportionate undivided share of common R.G. area 520.74 Sq.Mtrs. of CTS No.838, plus Internal Access Road area 286.67 Sq.Mtrs. and benefit of Road under Set-back area 568.84 Sq.Mtrs. of CTS No.838, of CTS No.837, 838, 839 of Village Nahur, Thaluka Kurla, Mumbai Suburban District alongwith the building situated thereon.

2. I have perused the impugned order. The petitioner had contested the application filed by respondent No.3, *inter alia*, on the ground that the same cannot be entertained in view of the decree passed by the City Civil Court, Mumbai dated 21 April 2010 in Suit No. 2257 of 2004.

3. There is no finding in the impugned order that relief sought by the respondent No. 3 is not hit by any of the findings recorded in the abovementioned suit. In that view of the matter, the impugned

order cannot be sustained and the same is set aside. The matter is remanded back to the respondent No.2 for deciding it afresh. The respondent No.2 shall endeavour to decide it as early as possible.

4. The Petition is disposed of in the aforesaid terms.

(N.R.BORKAR, J.)