

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14905 OF 2022

Clover Developers Pvt.Ltd.

..Petitioner

Vs.

The District Deputy Registrar Co-op.

Societies, Pune City. & Ors.

...Respondents

Mr.Surel Shah i/b. Mr.Aadesh M.Patil, for the Petitioner.

Mrs.Sushma Bhide, AGP for Respondent No.1.

Mr.Sitesh Sharma with Mr.Vijay Upadhyay, for Respondents 2 and 3.

CORAM : G.S. KULKARNI, J.

DATE : JANUARY 19, 2023

P.C.:

1. This petition is directed against an order dated 5 July 2022 passed by the Competent Authority under Section 11 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, Sale, Management and Transfer) Act, 1963 (for short 'the MOFA Act') whereby the petitioner's application raising an objection to the maintainability of the application filed by the respondent no.2-society has been rejected.

2. Perusal of the record indicates that there was a substantive civil suit between the parties being Special Civil Suit no.867 of 2018 which came to be decided by the judgment and order dated 30 April 2021 passed by the learned Civil Judge, Senior Division, Pune, against which the petitioner has filed a First Appeal in this Court being First Appeal

No.281 of 2021. It is on the ground that such proceedings are pending a stay of the proceedings under Section 11 was sought before the Competent Authority by the application in question. The Competent Authority in the impugned order has observed that by an earlier order the Competent Authority has specifically observed that the society would be granted permission to move Section 11 proceedings only after the decision in Special Civil Suit No.867 of 2018. The learned Competent Authority has observed that as the suit itself was decreed vide judgment and order dated 30 April 2021 and the substantive rights of the parties being adjudicated and determined, there was no impediment whatsoever in the Authority proceeding to decide the application.

3. Having heard the learned Counsel for the parties and having perused the impugned order, in my opinion, in the aforesaid circumstances, no perversity can be attributed to any of the observations and findings as recorded by the Competent Authority to stay Section 11 proceedings before it. The petition is devoid of merits. It is accordingly rejected. No costs.

4. All contentions of the parties in the pending First Appeal are expressly kept open.

[G.S. KULKARNI, J.]