



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 887 OF 2023

Deepak Madhavji Tanna alias  
Thakkar & ors.

.Petitioners

Vs.

Mukund Co-operative Housing Society Ltd. & anr. .Respondents

Mr. R. S. Datar i/b. Ms. Druti Datar, Advocate, for the Petitioners  
Mr. Ranvir Shekhawat i/b. M/s. RAJ LEGAL, Advocate, for  
Respondent No. 1

Mr. P. P. Pujari, AGP, for the Respondent – State

**CORAM : MADHAV J. JAMDAR, J.**

**DATE : 17.10.2023**

**P. C.**

1. Heard Mr. Datar, learned counsel appearing for the Applicant and Mr. Shekhawat, learned counsel appearing for Respondent No. 1.

2. The challenge is to the legality and validity of the order dated 25.08.2022 passed in Deemed Application No. 97 of 2022 by the Competent Authority alias District Deputy Registrar, Co-operative Society, Thane. By the impugned order, Deemed Conveyance has been granted in favour of Respondent No. 1 – Society. Respondent No. 1 – Society has been formed on 14.07.2015.

3. The factual position on record shows that the plan is sanctioned for the construction of the building on 15.04.1969, the Occupation Certificate has been issued by the Dombivali Municipal Corporation on 03.04.1984 and the possession has been given to the flat purchasers in or about 1984.

4. It is an admitted position that the Petitioners are promoters as contemplated under the provisions of the Maharashtra Ownership flats (Regulations of the Promotion of Construction , Sale, Management And Transfer) Act, 1963. It is the statutory responsibility of the Petitioners to form the Society and to execute the Conveyance. It appears that the Petitioners have failed to perform their statutory duty for about 38 years. Thus, this is not a case where interference is warranted under Articles 226 & 227 of the Constitution of India. However, it is settled legal position that the order granting Deemed Conveyance does not decide the issue of title and the Petitioners have remedy of filing the suit. Accordingly, it is clarified that the Petitioners can file suit for establishing their title to the property. All the contentions of the concerned parties with respect to such proposed suit are expressly kept open including the point of limitation.

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

(MADHAV J. JAMDAR, J.)