

Vidya Amin

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

WRIT PETITION NO. 1290 OF 2016

Airoli Neha Apartment Co-op. Housing Society ... Petitioner
Ltd.

Versus

The State of Maharashtra & Ors. ... Respondents

Ms. R.C. Nichani a/w. Mr. A.A. Maniyar for the petitioner.
Ms. Madhubala Kajale, 'B' Panel Counsel for respondent no. 1/State.
Ms. Shraddha Pawar i/b. Mr. Dilip Bodake for respondent no. 3.
Ms. Darshana Kadekot i/b. Mr. Vinod Joshi for respondent no. 4.
Mr. Mohan N. Devkule i/b. Pankaj J. Das for respondent no. 5 .

CORAM: G. S. KULKARNI, J.
DATED: 2 February, 2023

P.C.

1. This petition assails an order dated 22 September, 2015 passed by the Competent Authority under section 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 whereby an application as made by the petitioner-Society for grant of deemed conveyance has been rejected.

2. After the proceedings were heard for sometime, learned counsel for the petitioner makes a statement that the petitioner-society will make appropriate application to the Planning Authority considering the fact that there are 40 flat purchasers, who are in settled possession of the premises of the Society since the year 2007. It is also her contention that they have paid valuable

consideration to purchase the tenements and it cannot be that the Society would exists without an appropriate conveyance and/or any lease agreement being entered by the CIDCO with the Society. She fairly submits that there are certain issues which are required to be taken up with the Planning Authority and if the petitioner is permitted to move the Planning Authority by appropriate application, then such application/proceeding can be made for assignment of the plot in favour of the petitioner-Society.

3. In my opinion, in the facts and circumstances of the case, the contention as urged on behalf of the petitioner are required to be accepted. The petitioner is accordingly permitted to take up the issues with the Planning Authority and/or any appropriate authority and thereafter take recourse to either get the assignment of the plot in its favour from the CIDCO and/or as the law may require. All contentions of the parties in that regard are expressly kept open. The appropriate authority shall take a decision on such application in accordance with law. It is clarified that such decision shall be taken without being influenced by the order dated 22 September, 2015 passed by the Competent Authority.

4. Disposed of in the above terms. No costs.

(G. S. KULKARNI, J)

