

Shabnoor

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

WRIT PETITION NO.4879 OF 2024

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Gramdevi Devasthan & Ors

... Petitioners

V/s.

Gangotri Shopping Center Premises

Cooperative Society Ltd. & Ors

... Respondents

Mr. Anil D'souza a/w Mr. Yogesh Rawool a/w Mr. Shailesh Redekar a/w Mr. Nitin Bhoir i/by Ms. Vidhisha Legal, for Petitioners.

Mr. S. D. Rayrikar, AGP for State/Respondent Nos.3 to 5.

Mr. Rammani Upadhyay a/w Mr. Matiew John, for Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : APRIL 1, 2024

P.C.:

1. According to the petitioners, though on the date of execution of agreement in favour of purchasers by the promoter, there was valid subsisting lease. However, on the date of passing of the impugned order, the lease period in favour of the promoter was not over. In absence of permission under Section 36A of the Maharashtra Public Trusts Act, 1950, such order passed by the Competent Authority is void. Learned Advocate for the petitioner submits that as of today lease agreement is not made.

2. In my opinion, it will be open for the petitioners to raise such contention before the Civil Court as it has been consistently held by this Court that the effect of unilateral deemed conveyance is to confer rights of the promoter on the purchaser and what rights are conferred in favour of the purchaser need to be decided in a substantive Civil Suit filed at the instance of aggrieved party.

3. Faced with this situation learned Advocate for the petitioner, on instructions, seeks permission to withdraw the present writ petition with liberty to raise all the contentions in a suit to be filed before the Civil Court.

4. Permission, as prayed for, is granted.

5. All contentions are kept open to be agitated before the Civil Court, the writ petition is permitted to be withdrawn with liberty as prayed for.

(AMIT BORKAR, J.)