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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5217 OF 2019**

Chinmay Shantidham Co-op. Hsg Soc. Ltd
Building No. A-08 & 09,
Shantidham, Mira Road(East),
District: Thane-401 107
through its Chairman

Dr. Amit Narendra Mahimkar.

... Petitioner

vs.

- 1) The State of Maharashtra through the
Competent Authority and District Deputy
Registrar, Co-operative Societies, Vardhavat
Mansion, 1st Floor, Station Road, Thane(W)-
400 601.
- 2) Shri Ram Mandir Devasthan Trust
Ram Mandir Road, Bhayander(W),
Thane – 401101.
- 3) M/s. Ram Nagar Development Corporation,
811, Embassy Center, Nariman Point,
Mumbai – 400 021, through its Trustee
Mr. Dalchand Chaudhari and Mr. Mukesh
Chaudhari.
- 4) The Commissioner,
Municipal Corporation of Mira
Bhayander, Bhayander(W),
Thane – 401101.

... Respondents

Mr. Sunil B. Malvankar, for Petitioner.

Mr. Vishal Kanade i/b. J.M. Joshi, for Respondent no.3.

Mr. A.K. Naik, AGP for Respondent No.1.

CORAM : GAURI GODSE, J.

DATED : 15th APRIL 2024

ORAL ORDER :

1. Though served, none appears for respondent nos. 2 and 4. Heard Mr. Malvankar for the petitioner, Mr. Kanade for respondent no. 3 and learned AGP for respondent no. 1. Considering the nature of grievance made on behalf of the petitioner and the submissions made by the parties, petition is taken up for final disposal at admission stage.

2. This petition takes an exception to the order dated 30th January 2016, passed by the Competent Authority rejecting the petitioner's application for granting Unilateral Deemed Conveyance under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and transfer) Act, 1963 ('MOFA'). The said application is rejected on the ground of non-compliance with the objections raised to the application filed by the petitioner-society. Learned counsel for the petitioner submits that all the compliances were made by the petitioner society, and the application was filed in a prescribed format along with all the

necessary documents. He submits that the copy of the application and the necessary documents are placed on record by way of affidavit-in-rejoinder. He further submits that all these documents were also filed along with the application before the Competent Authority. He submits that the Competent Authority be directed to decide the application after making necessary inquiry as contemplated under Section 11 of the MOFA Act and decide the application on merits.

3. Learned counsel for respondent no.3 submits that the present petition is filed after a gap of three years from the date of the impugned order without any explanation for the delay. He, however, submits that since the petitioner is ready to comply with the objections, the application can be heard in accordance with law by keeping the contentions of respondent no.3 on merits open. He submits that the copy of the application annexed to the affidavit-in-rejoinder indicates that there are blanks in the application regarding particulars of the property and area. He, therefore, submits that the petitioner be directed to remove all the objections and comply with the directions passed by the Competent Authority.

4. On instructions, learned counsel for the petitioner submits that the petitioner shall comply with all the necessary procedural

requirements by providing necessary particulars in the application, and any other procedural requirement will also be complied with.

5. I have perused the papers. The petitioner's application is rejected on the ground of non-compliance with the objections. The affidavit-in-rejoinder filed by the petitioner indicates that the required documents were filed by the petitioner; however, there are certain blanks in the application. Since learned counsel for the petitioner states that the petitioner shall make all the procedural compliance, this petition can be disposed of by remitting the matter back to the Competent Authority for deciding the application on merits in accordance with law. No prejudice will be caused to any respondents if the matter is remitted back for deciding the petitioner's application on merits.

6. The petition is, therefore, partly allowed by passing the following order:

I) Order dated 30th January 2016, passed by the Competent Authority in Application No. 12434 of 2016, is quashed and set aside.

II) Application No. 12434 of 2016 is restored to the file of the Competent Authority and the District Deputy Registrar, Cooperative Societies, Thane, for a fresh decision on merits

in accordance with the law and after hearing all the parties.

III) The petitioner is permitted to remove all the office objections in the application within the time granted by the Competent Authority.

IV) Parties shall appear before the Competent Authority on 24th April 2024 at 11:00 a.m., and thereafter, the Competent Authority shall fix the schedule of hearing.

V) To enable the respondent nos. 2 and 4 to appear before the Competent Authority on 24th April 2024 at 11:00 a.m, the learned advocate for the petitioner to supply copy of this order to the learned advocates appearing for respondent nos. 2 and 4.

7. Needless to record that I have not examined the rival contentions of the parties on merits. Hence, all contentions of all parties are kept open.

8. Writ Petition is disposed of in the above terms.

(GAURI GODSE, J.)