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

WRIT PETITION NO.13749 OF 2022

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Shree Prasad Co-op Housing Society
Ltd. Through Secretary ... Petitioner

V/s.

Shree Sanidhya Co-op Housing Society
Ltd. & Ors ... Respondents

Mr. Jonita D'abreo, i/by JRA Law Associates LLP, for
Petitioner.

Mr. Aditya P. Kharkar, for Respondent No.1.

Mr. P. G. Sawant, AGP, for State/Respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 22, 2024

P.C.:

1. The petitioner (housing society) is challenging the order passed by the District Deputy Registrar on 7 May 2019 directing deemed conveyance of 1620.03 sq. mtrs. area in favour of respondent No.3/society.

2. According to the petitioner, the total developed area was 3520.00 sq. mtrs. Out of the said area, the area of 65.80 sq. mtrs. is encroached portion and the area of 119.55 sq. mtrs. is a portion affected by development plan.

3. The respondent No.1/society on 1 October 2018 filed an application for deemed conveyance with respondent No.2. The respondent No.2, by the impugned order has directed deemed conveyance in relation to area of 1620.03 sq. mtrs.
4. According to the petitioner, the Government Resolution dated 22 June 2018 requires proportionate area to be conveyed in favour of society, in case the developer has constructed multiple buildings which requires registration of multiple co-operative housing societies. The petitioner has placed reliance on sanctioned plan.
5. On perusal of the sanctioned plan, it appears that the respondent No.2 by the impugned order has directed issuance of deemed conveyance in relation to area admeasuring 1620.03. The area directed to be conveyed in favour of respondent No.1 corresponds with the built up area mentioned in the sanctioned plan in relation to building No.1. The respondent No.2 has calculated the total area by excluding encroached portion and the area affected by the development plan. Therefore, no fault can be found with the order of direction to grant deemed conveyance for area of 1620.03 sq. mtrs.
6. It is well settled that the adjudication under Section 11 of the Maharashtra Ownership of Flats Act, 1963 (for short 'MOFA') does not conclusively adjudicate rights between the parties and the persons affected by such adjudication are entitled to get their rights adjudicated before the competent Civil Court.
7. On overall consideration of the order passed by the District

Deputy Registrar, material on record and sanctioned plan, I find, no legal infirmity in the order.

8. The writ petition is, therefore, dismissed. No costs.

9. It is made clear that grant of deemed conveyance in favour of respondent No.1 shall not preclude the petitioner from applying before the Competent Authority for grant of deemed conveyance.

(AMIT BORKAR, J.)