

Nikita

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

WRIT PETITION NO.593 OF 2018

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KAILAS
DARADE

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Tridev Co-operative Housing Society
Ltd.

... Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. Siddesh Bhole a/w Mr. Ashwin Pimpale i/b SSB
Legal & Advisory for the Petitioner.

Mr. Sanjay D. Rayrikar, AGP for the State-Respondent
Nos. 1 and 2.

Mr. Uday L. Rane, Ex-Secretary and Mr. D. L. Loke
Chairman are present in the Court.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2024

PC.:

1. The petitioner is challenging certificate issued under Section 11(4) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. The certificate is in relation to Survey No.9 Hissa No.4 and Survey No.9 Hissa No.6 admeasuring 1700 sq. mtrs. and 200 sq. mtrs. respectively. The total area mentioned in the certificate is 1900 sq. mtrs. The Competent Authority has issued deemed conveyance certificate in favour of petitioner. However according to the petitioner, the Society is entitled to area of 1653.54 sq. mtrs.

where this area is demarcated by compound.

2. According to the petitioner, the excess area conferred in favour of the petitioner by deemed conveyance certificate needs to be deducted from the certificate. Since the petitioner is giving up its right over the balance area, there is no impediment for granting such relief. Hence following order:

a) The deemed conveyance certificate dated 5th May 2014 issued in favour of the petitioner under Section 11(4) of the MOPHA Act, 1963 is modified by substituting area of Survey No.9 Hissa No.4 to 1653.54 sq. mtrs. instead of 1700 sq. mtrs.

b) The Competent Authority shall issue fresh certificate in favour of the petitioner under Section 11(4) restricting Survey No.9 Hissa No.4 to 1653.54 instead of 1700 Sq. Mtrs.

b) The fresh certificate shall be in relation to total area of 1653.54 sq. mtrs. excluding area of Survey No.9, Hissa No.6.

3. Learned counsel for the petitioner states that the Authorised Representative of the Society is present.

4. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)