



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2369 OF 2024

Royal Developers and Ors.

... Petitioner.

Versus

Royal Heights Co-Op Hou.Soc.Ltd and Ors.

... Respondents.

Mr. Pradeep J. Thorat i/by Ms.Aditi S. Naikare for the Petitioner.

Ms. Madhubala Kajle, "B" Panel Counsel for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : December 04, 2024

P. C.:

1. Heard.

2. By this Petition, the challenge is to the order dated 14th December, 2021 passed by the Competent Authority under Section 11(3) of the Maharashtra Ownership Flats (Regulation of The Promotion of Construction, Sale, Management and Transfer) Act, 1963 granting deemed conveyance to the Respondent No.1- Society of an area admeasuring 197 sqr.mtrs. and the building standing thereon.

3. The contention of learned counsel appearing for the Petitioner is that as per Clause 5 of the flat purchasers agreement, the Petitioner was entitled to utilise the additional FSI which would be available. He would further submit that as per Clause 14, the

conveyance was required to be executed only after the dues were received by the Developer, which according to him have not been received and the Application for deemed conveyance has been resisted on these two grounds.

4. It is well settled by the decision of ***Mazda Construction Company v. Sultanabad Darshan CHS Ltd. [2012 SCC OnLine Bom 1266]*** and clarified in the case of ***Shri Chintamani Builders vs. State of Maharashtra [(2016) SCC OnLine Bom 9343]***, that the grant of the deemed conveyance does not conclude the issue of right, title and interest in the subject property. Considering the resistance of the Petitioner-Developer on the ground of entitlement to the FSI by virtue of Clause 5, the Competent Authority even otherwise could not have decided the right of the Developer to the additional FSI which may be generated. As regards the dues which are stated to be pending from the flat purchasers, it is open for the developer to recover the same by filing civil suit in that regard.

5. In light of the above, I find no reason to interfere with the order of the deemed conveyance under Article 227 of the Constitution of India. Petition is devoid of merits and stands dismissed.

[Sharmila U. Deshmukh, J.]