



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.448 OF 2024

Abdul Rehman Abid Hussain Chaware And Ors ...Petitioners

Versus

Competent Authority And
District Deputy Registrar, Co
Operative Societies Palghar And Ors. ...Respondents

Adv. Satyakumar Shettigar for the Petitioners.

Adv. Jayesh G. Gawde for Respondent No.2.

Adv. P. G. Sawant, AGP for the State.

Coram : Sharmila U. Deshmukh, J.

Date : October 23, 2024.

P. C. :

1. By this Petition, the challenge is to the order dated 24th May, 2022 passed by the Competent Authority in exercise of powers under Section 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion of the Construction, Sale, Management and Transfer) Act, 1963 and the registration of deemed conveyance certificate.
2. This Court is informed that subsequent to the order passed by the Competent Authority, the deed of deemed conveyance has been duly registered. By the impugned order, the Competent Authority has granted a certificate entitling the Petitioner to execution of the unilateral deemed conveyance in respect of area admeasuring 2842.95 sq. mtrs.
3. The contention of learned counsel for the Petitioner is that they are the owner-promoters of Respondent No. 2 Society and claim a

right title and interest in the area of which deemed conveyance has been granted by the Competent Authority.

4. It is now well settled by the decision in the case of ***Mazda Construction Company vs. Sultanabad Darshan CHSL***, [2013 (2) All MR 278] and clarified in the case of ***Chintamani Builders vs. State of Maharashtra And Ors.*** [(2016) SCC OnLine Bom 9343] that the grant of certificate of unilateral deemed conveyance does not conclude the right, title and interest of the parties in the subject property.

5. As in the present Petition, the Petitioners claim a right in the subject property, it is open for the Petitioner to file an substantive suit for declaring of their right, title and interest in the subject property. In view of the well settled position in law, I am not inclined to entertain this Petition under Article 227 of the Constitution of India. In any event, considering the limited jurisdiction of the Competent Authority as the Competent Authority merely steps into the shoes of the promoter and complies with the obligation of the promoter, in event any issue as regards the ownership rights in the subject property are claimed, the same is beyond the jurisdiction of the Competent Authority.

6. In light of the above, the Petition is dismissed with liberty to the Petitioner to file a substantive suit if so advised.

7. If the civil proceedings are initiated, the Civil Court to decide the same uninfluenced by the fact that deemed conveyance has been executed in favour of Respondent No. 2 Society.

[Sharmila U. Deshmukh, J.]