

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 586 OF 2024

Sneha Nagar Phase II CHS Ltd.
Through its Chairman Mrs. Ujwala
Francis Salve.

...Petitioner.

Versus

Competent Authority, District
Deputy Registrar of Cooperative
Societies at Palghar and Others.

...Respondents.

Mr. Vinod P. Sangvikar, Advocate for Petitioner.
Mr. Y.D. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : October 8, 2024.

P. C. :

1. By this Petition, the challenge is to the Order dated 1st March 2023 passed by the Competent Authority in Application under Section 11 of the Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (for short "MOFA") granting an area of 1629.52 sq. meters by way of deemed conveyance.
2. Learned Counsel appearing for the Petitioner submits that the Petitioner had made an application seeking deemed conveyance in

respect of the area admeasuring 2573.60 sq. meters. He points out the architect certificate which is at page 24 of the Petition which provides the area to be conveyed to the society on Ground Coverage basis as 2483.60 sq. meters. He submits that the Competent Authority has however granted an area admeasuring 1629.52 sq. meters. He submits that the Petitioner is therefore, entitled to the area as per the Architect's Certificate.

3. Perusal of the order of the Competent Authority would indicate that the Competent Authority has taken into consideration the Government Resolution(G.R.) dated 22nd June 2018 which is the resolution passed by the State Government to simplify the procedure for grant of deemed conveyance where the entire lay out not yet developed. As per the guidelines set out in the said G.R. of 22nd June 2018, the Competent Authority is required to calculate the area of land which is required to be conveyed in order to sustain the constructed built-up area of the applicant society. Following the said G.R. of 22nd June 2018, the Competent Authority has calculated the constructed area of the four buildings i.e. A, B, C, D and has accordingly issued certificate of deemed conveyance in respect of said area of land. It is not disputed that the Petitioner Society is part of the larger lay out and therefore, the procedure, which is required to be followed as per the G.R. of 22nd June 2018, which is binding on the Competent Authority,

has been followed. Perusal of the impugned order would indicate that after taking into consideration the constructed built-up area, the proportionate land has been granted by way of deemed conveyance. No infirmity can be found in the order of the Competent Authority as the Competent Authority has followed the Government Resolution of 22nd June 2018. It is well settled that in the event, any further entitlement is sought by the Petitioner, it is open for the Petitioner to file a substantive suit seeking right, title and interest in the enhanced area. As far as the Competent Authority is concerned, the Competent Authority while adjudicating the application under Section 11 of MOFA, steps into the shoes of the Promoter and complies with the obligation of the promoters. While doing so, the Competent Authority is bound by the guidelines issued by the State Government and has accordingly granted deemed conveyance.

4. No infirmity can be found in the order. Petition stands dismissed.

[Sharmila U. Deshmukh, J.]

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