

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

WRIT PETITION NO.9310 OF 2024

Tirumala cooperative Housing Society
Ltd. and Ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

....

Mr. Shreepad Murthy a/w Mr. Abhishek Patil, for the Petitioners.

Mr. P. G. Sawant A.G.P for the Respondent Nos. 1, 2 & 5 – State.

Mr. Sukand Kulkarni a/w Mr. Dinesh Rane for Respondent No.3.

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CORAM : AVINASH G. GHAROTE, J.

DATE : 3rd JULY, 2024

P.C.:

1. Heard Mr. Shreepad Murthy, learned counsel for the petitioners, Mr. Kulkarni, learned counsel for respondent No.3 and learned A.G.P for Respondent Nos.1, 2 & 5.

2. The petition question the order dated 16.01.2024 passed by the the Divisional Joint Registrar cancelling the registration of the petitioner-society which was registered in the year 2011, in respect of building No.D-1 in the lay out, out of which building numbers A B & C are claimed to be belonging to respondent No.3 – Society on account of the conveyance in its favour. It is also

contended that subsequent to the registration of the petitioner-Society in the year 2011, a conveyance order under Section 11(3) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("MOFA Act") has been granted in favour of the petitioners in respect of Building No.D-1 and the land appurtenant accordingly. The cancellation of the registration is only on the ground that while registering the petitioner-Society, no notice was served upon respondent No.3.

3. Since it is not disputed that the buildings are situated in the same lay out, the respondent No.3 by no stretch of imagination can claim ignorance of the registration in favour of the petitioners when it was aware, that the affairs of the Building No.D-1 were being managed separately by the petitioners. Since that is the only ground on which the registration has been cancelled as is apparent from the order dated 16.01.2024, the same prima facie appears to be untenable.

4. Since the revision against the same is pending before the respondent No.1, in which an application for stay, in pursuance to the directions by this Court in Writ Petition No.3916/2024 dated

20.03.2024 (Page-156), has been rejected by the impugned order, the same needs considerations.

5. Issue notice for final disposal, returnable on 29th July, 2024.

6. Mr. Sukand Kulkarni waives notice for Respondent No.3 and the learned A.G.P for respondent Nos.1, 2 and 5 - State.

7. The petitioners shall serve the respondent Nos.3 & 4 by all modes permissible in law till the returnable date.

8. By way of an ad-interim order, the impugned order dated 16.01.2024 passed by the Divisional Joint Registrar, de-registering the petitioner-society shall stand stayed till the returnable date. So also the further proceedings before the respondent No.1 shall also stand stayed till returnable date.

(AVINASH G. GHAROTE, J.)