

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.9951 OF 2024
IN
WRIT PETITION NO.9427 OF 2023

Janta Housing Pvt. Ltd. Thr.
Authorized Signatory) ...Applicant

In the matter between

Janta Housing Pvt. Ltd. Thr.
Authorized Signatory) ...Petitioner

Versus

State Of Maharashtra Thr.
Got. Pleader High Court, Mumbai And Ors. ...Respondents

*Adv. Anoshak Daver a/w Adv. Pratibha Rupnwar a/w Adv. Mansi Jain i/b
Samatva Legal Associates for the Applicant.
Adv. A. M. Saraogi a/w Amitt Dubey for the Respondents.
Adv. M. S. Bane, AGP for the State.*

Coram : Sharmila U. Deshmukh, J.

Date : July 1, 2024.

P. C. :

1. Interim Application has been preferred seeking permission to amend the Petition as per the schedule annexed to the Interim Application and for interim orders.
2. Learned counsel for the Applicant submits that he is confining the Interim Application only for the purpose of seeking proposed amendment as set out in the schedule.
3. The said Application is opposed by learned counsel for the

Respondent Society by contending that the relief and in particular the prayer clause a(iii) seeks cancellation of a mutation entry which can be done only by the authorities as prescribed under the provisions of Maharashtra land Revenue Code, 1966. He submits that the amendments could not be granted as the adjoining building in the same layout had applied for conveyance and the said issue had been decided by order of learned Single Judge of this Court on 19th December, 2023.

4. By the present Interim Application, the Applicant seeks to carry out the amendment to the Petition for the purpose of incorporating a challenge to the registered Unilateral Deemed Conveyance as according to the Applicants without any notice as contemplated by Section 11(5) of The Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 the Certificate of Unilateral Deemed Conveyance came to be registered.

5. It is well settled that at the stage of grant of amendment the merits of the amendments are not required to be gone into. The Petition is still at the pre admission stage and there are no interim orders which would be prejudice the case of the Respondent Society. Even if it is held that by way of the amendment, the reliefs sought are not in the jurisdiction of this Court, at the time of the hearing of the Petition, the same can be considered. Merely because in case of Society identically situated, the Petition stands dismissed the same cannot come in the way of the Application seeking amendment to the Petition.

6. In light of the above, Interim Application is allowed in term of

prayer clause (a) which reads thus:

- (a) Be pleased to allow the Petitioner to amend the
Petition as per the Schedule annexed herewith.

- 7.** Amendment to be carried out within a period of two weeks.

[Sharmila U. Deshmukh, J.]