

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3701 OF 2024

Mr. Ardeshir Behram Dubash	...Petitioner
<i>Versus</i>	
State of Maharashtra & Ors.	...Respondents

Mr. Vishal Kanade a/w. Mr. Jamsheed Master a/w. Ms. Sanidhaa Vedpathak and Ms. Vahista Jagirdar, Advocates, i/b. Maneksha & Sethna, for the Petitioner.

Mr. Vishal Khanavkar, AGP, for the Respondent Nos.1 and 2.

Mr. Kunal Bhanage, Ms. Sonal Hemant Mishal, Mr. Akshay Pawar and Mr. Aijaz Sayyed, Advocates, for the Respondent No.3-Society.

Ms. Samridhi Agrawal, Advocate, i/b. AAK Legal, for the Respondent No.6.

Mr. Sunil Shah, Secretary of the Respondent No.3-Society, present.

Mr. Dharmesh Parikh, Joint Treasurer of the Respondent No.3-Society, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 14th OCTOBER 2024

P. C.:

1. By the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is challenging the legality and validity of the order dated 14th March 2024 passed by the Respondent No.2-District Deputy Registrar, Co-operative Societies, Mumbai City (1), Mumbai in Application No.36 of 2023 filed under Section 11 of the Maharashtra Ownership Flats (Regulation

of the promotion of construction, sale, management and transfer) Act, 1963. (“**MOFA**”) seeking Deemed Conveyance.

2. Mr. Kanade, learned Counsel appearing for the Petitioner submitted that the only issue involved in the Writ Petition is that Deed of Assignment has been directed to be issued by the impugned order without taking into consideration the provisions of Deed of Assignment of Lease dated 18th July 1973. He also submitted that the impugned order has been passed in excess of the relief sought in the Application.

3. In view of the said contention raised by Mr. Kanade, learned Counsel appearing for the Petitioner, Mr. Kunal Bhanage, learned Counsel appearing for the Respondent No.3 submitted that the Respondent No.3 has no objection if the impugned order dated 14th March 2024 is suitably modified.

4. Although the Respondent No.3-Matru Ashish Co-operative Housing Society Limited is entitled for the relief under Section 11 of the MOFA, some modification in the impugned order dated 14th March 2024 is required.

5. Accordingly, both the parties have tendered the Minutes of Order. The said Minutes of Order are taken on record and marked 'X' for identification. The said Minutes of Order are signed by the learned Advocate appearing for the Petitioner and learned Advocate appearing for the Respondent No.3. The said Minutes of Order read as under:

"MINUTES OF THE ORDER

1. Heard parties.
2. Petition is disposed of in terms of these Minutes of Order.
3. The impugned Order dated 14th March 2024 of Respondent No.2 shall be modified and read and construed in the following manner:-
 - (a) Respondent No.3 Society will be entitled to a Deed of Assignment of the Lease dated 18th July 1973 (originally entered into between the predecessor in title of the Petitioner and Respondent No.4 Developer) for the balance unexpired term thereof upon the terms and conditions mentioned in the said lease.
4. No order as to costs."

6. The impugned order dated 14th March 2024 passed by the Respondent No.2-District Deputy Registrar, Co-operative Societies, Mumbai City (1), Mumbai in Application No.36 of 2023 stands modified in terms of the Minutes of the Order.

7. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]

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MILIND
PATIL

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