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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.593 OF 2025

Sukhram Bhagwandas Kandhari & Ors. ... Petitioners

V/s.

The Competent Authority & District
Deputy Registrar of Coop. Societies III,
Mumbai & Ors. ... Respondents

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Mr. Atul M. Damle, Senior Advocate with Ms. Pragya,
Mr. Ameya Khot i/by M/s. Legal Vision for the
petitioners.

Ms. Dhruti Kapadia, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2025

P.C.:

1. The petitioners are challenging an order of deemed conveyance in favour of respondent No.2 – Society, contending that the impugned order was executed in a manner that contravenes both statutory provisions and the principles of natural justice.

2. According to the petitioners, they were bona fide members of the original society, the building of which was subsequently demolished to facilitate the construction of a new building. They assert that the formation of respondent No.2 – Society, following such demolition and reconstruction, enabled respondent No.2 to

claim deemed conveyance under Section 11 of the MOFA Act. The petitioners further submit that, being undisputed members of the erstwhile society, they are entitled to challenge the deemed conveyance order as the subsequent reorganization has, in effect, deprived them of the statutory and membership benefits customarily accorded to members of a society. It is additionally submitted that the formation of the new society and the execution of the conveyance order therein were undertaken without adequate procedural fairness and equitable consideration of the petitioners' longstanding membership rights.

3. It prima facie appears that the petitioners, as members of the earlier society—which has been demolished and replaced by a partially constructed new building subject to deemed conveyance—are entitled to membership of the new society. It is evident that Section 11 of the MOFA Act expressly creates a right in favour of an Association of Persons. This statutory right has, however, already been fully effectuated in favour of respondent No.2. Consequently, any residual remedy available to the petitioners is limited to pursuing their claim for membership benefits through the statutory procedures prescribed for such purposes. In this regard, it is reiterated that the avenues for redress available to the petitioners must not impinge upon the clear statutory scheme under which the deemed conveyance was granted.

4. Considering the fact that the petitioners were members of the earlier society, it is hereby directed that the competent Authorities, before whom membership proceedings are pending, shall expedite and conclude the petitioners' statutory proceedings

before the Statutory Authority within a period of eight weeks from the date of this order.

5. The grant of deemed conveyance, as has been consistently held by this Court, does not conclusively determine or extinguish the civil rights between the parties. It is expressly noted that the deemed conveyance order operates only to transfer certain property interests and does not preclude the petitioners from subsequently enforcing any residual or ancillary civil rights that may have arisen in connection with their membership or other related matters. Accordingly, the petitioners remain at liberty to institute a civil suit or appropriate proceedings to redress any grievances, including claims arising from breach of statutory duty or denial of membership benefits, subject to the applicable procedural and substantive laws governing such actions.

6. The writ petition stands disposed of in these terms. No costs.

(AMIT BORKAR, J.)