

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

WRIT PETITION NO.2690 OF 2024

Wescon Properties Private Ltd.

....Petitioner

V/S

District Deputy Registrar

Co-operative Societies & Anr.

....Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.37117 OF 2024
IN
WRIT PETITION NO.2690 OF 2024**

Wescon Properties Private Ltd.

....Applicant

IN THE MATTER BETWEEN

Wescon Properties Private Ltd.

....Petitioner

V/S

District Deputy Registrar

Co-operative Societies & Anr.

....Respondents

Mr. Shreepad Murthy with Mr. Sahil Wagh i/b Mr. Abhishek Patil *for the Petitioner/Applicant.*

Mr. V.R. Raje, AGP *for Respondent No.1 / State.*

Mr. Vishal Pattabiraman i/b Mr. Alkesh M. Kadam *for Respondent No.2.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 08 MAY 2025.**

P.C.:

1. Leave granted to amend the Petition so as to incorporate challenge to the registered deed of deemed conveyance. Amendment to be carried out forthwith.

2. **Rule.** Rule is made returnable forthwith. By consent of the learned counsel appearing for parties, the Petition is taken up for hearing and final disposal.

3. The Petition challenges order dated 11 April 2023 passed by the District Deputy Registrar, Co-operative Societies, Thane and Competent Authority granting certificate of unilateral deemed conveyance of land admeasuring 39,358.41 square meters in favour of the second Respondent-Society.

4. I have heard Mr. Murthy, the learned counsel appearing for the Petitioner, Mr. Pattabiraman, the learned counsel appearing for Respondent No.2-Society and Mr. V.R. Raje, the learned AGP appearing for Respondent No.1/State.

5. It appears that the Application No.48 of 2023 has been decided by the Competent Authority in absence of the Petitioner, who is the Promoter. It is Petitioner's case that it was never issued with notice of Application No.48 of 2023 and that the second Respondent-Society has straightway gone ahead with paper publication of notice.

6. It appears that the second Respondent-Society relied upon certificate of its Architect, in which it was indicated that A3 type building comprising of sanctioned built up area of 1478.87 square meters has not been constructed at the site. The

Architect has certified that the balance built-up area at the site is 1496.84 square meters. Though the Competent Authority has taken into consideration the said certificate of the Architect, it has still proceeded to convey the entire plot area of 39,358.41 square meters in favour of the second Respondent-Society.

7. The issue for consideration in the given facts is whether the right of the Petitioner to complete construction of A3 type building with sanctioned built-up area of 1478.87 square meters would get completely destroyed on account of issuance of certificate of deemed conveyance dated 11 April 2023. Though the Competent Authority was made aware of the position through the Society's Architect's certificate that the Developer is yet to complete construction of A3 type building with sanctioned built up area of 1487.87 square meters, the Competent Authority has not recognized the right of the Petitioner to complete the said construction. Mr. Murthy would clarify that what the Petitioner expects is his right to complete the construction of A3 type building. He however submits that once the Society becomes owner of the entire land, the Petitioner would not be able to construct A3 type building with built-up area of 1478.87 square meters. Mr. Murthy would submit that after completion of A3 type building with the sanctioned built-up area, the occupiers of the units constructed in A3 type building can be made members of the Respondent-Society. Thus the real grouse of the Petitioner appears to be the certificate of deemed conveyance coming in his

way in completing construction of A3 type building with sanctioned built-up area of 1478.87 square meters. The conundrum can be solved by recognizing the right of the Petitioner to carry out additional construction of A3 type building as per the sanctioned plan with built-up area of 1478.87 square meters. This right of the Petitioner needs to be recognized in the certificate of deemed conveyance dated 11 April 2023. For this limited purpose, the proceedings deserve to be remanded to the Competent Authority for issuance of fresh certificate of unilateral deemed conveyance in favour of second Respondent-Society by recognizing the right of the Petitioner to carry out construction of A3 type building with sanctioned built-up area 1478.87 square meters plus Recreational Ground benefits, if available.

8. The Petition accordingly succeeds partly and I proceed to pass the following order:

i) Order dated 11 April 2023 passed by the Competent Authority in Application No.48 of 2023, the certificate of unilateral deemed conveyance dated 11 April 2023 and the registered deed of conveyance dated 13 December 2024 are set aside.

ii) Application No.48 of 2023 is remanded before the Competent Authority for the limited purpose of incorporation in

the certificate the right of the Petitioner to complete construction of A3 type building with sanctioned built-up area of 1478.87 square meters plus proportionate recreational ground area benefit, if any.

iii) The Competent Authority shall issue fresh certificate of unilateral deemed conveyance in favour of second Respondent-Society in respect of land admeasuring 39,358.41 square meters by incorporating the condition that conveyance of land in favour of the second Respondent-Society shall not come in the way of Petitioner constructing A3 type building with sanctioned built-up area 1478.87 square meters plus recreational ground area benefit, if any.

iv) Respondent No.2-Society shall not object to the Petitioner completing construction of A3 type building with sanctioned built-up area of 1478.87 square meters plus recreational ground area benefit, if any, and shall co-operate with the Petitioner in getting the plans revised and sanctioned for carrying out such construction.

v) It is however clarified that Petitioner shall not be entitled to put in construction beyond 1478.87 square meters plus recreational ground area benefit, if any, in pursuance of right recognized in the freshly issued certificate of deemed conveyance.

vi) Parties shall appear before the Competent Authority on 26 May 2025 and seek further directions for fixation of date(s) in the remanded proceedings.

9. With the above directions, the Petition is partly **allowed and disposed of**.

10. In view of disposal of the Writ Petition, nothing would survive in the Interim Application and the same is also **disposed of** accordingly.

(SANDEEP V. MARNE, J.)

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