

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3408 OF 2024

Bharti Hemantkumar Udaseen

...PETITIONER

V/S.

State of Maharashtra and Ors.

...RESPONDENTS

Mr. Vikas Agarwal (Thr. VC) *h/f. Adv. R. D. Dhongde for the Petitioner.*

Mr. Amol B. Jagtap *for the Respondent No.3.*

Smt. V. R. Raje AGP for Respondent-State.

CORAM : SANDEEP V. MARNE, J.

Dated : 5 March 2025.

P.C. :

1. The petition challenges order dated 23rd November 2023 passed by the Competent Authority and District Deputy Registrar granting Certificate of unilateral deemed conveyance of land and building in favour of Respondent No.3 - Society.

2. The present petition is filed by the persons claiming to be the original land owners. It is sought to be suggested that mere agreement for sale was executed with Respondent No.4– Developer which was neither registered nor properly stamped and that

therefore the Developer did not have any right to develop the land. It is also contended that though the Competent Authority has made reference to the commencement certificate dated 16th July 1985, no such document was actually filed by the Society before the Competent Authority. It is also contended that the original land owners have not been given their due entitlement flowing out of the agreement of sale.

3. In my view alleged dispute between the land owners and the Developer with regard to entitlement of land owners in respect of benefits flowing out of the agreement for sale are absolutely irrelevant for the purpose of deciding application under Section 11 of the Maharashtra Ownership Flats Act, 1966 [MOFA]. What has to be done by the Competent Authority under Section 11 of the Act is to merely fulfill the obligation which the Promoter undertakes to transfer his right, title and interest in the land and building in favour of collective body of the flat purchasers. The alleged disputes between original land owners and the Developer cannot be decided by the Competent Authority in limited remit of inquiry under Section 11 of the Act.

4. So far as the development permission dated 16th July 1985 is concerned, it is not the case of the Petitioner that no such development permission is in existence. There is no such pleading in the entire petition. Therefore, I do not find any valid reason to disbelieve finding of fact recorded by the Competent Authority that

plans for construction of the building were indeed sanctioned on 16th April 1985.

5. The order passed by the Competent Authority thus does not suffer from any patent error. If Petitioners believe that they have any right, title or interest in the land conveyed in favour of the Society, it would be open for them to institute Civil Suit to claim such title. The order of deemed conveyance cannot be interfered with only on account of existence of alleged disputes between the original land owner and the Developer. It appears that conveyance in pursuance of order passed by the Competent Authority has already been registered and the name of the Society is mutated in the Revenue Records.

6. I therefore do not find any valid reason for interfering in the order of deemed conveyance.

7. Writ Petition is accordingly dismissed.

SANDEEP V. MARNE, J.

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