

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8061 OF 2024

Harish Ramniklal Kapadia

...Petitioner

V/s.

District Deputy Registrar Co-
operative Societies, Mumbai City-4
and Competent Authority under
MOFA Act and Ors.

...Respondents

Mr. S.L. Mhatre *for the Petitioner.*

Ms. K.N. Solunke, *AGP for Respondent Nos.1 and 7-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 10 January 2025.

P.C. :

1) Petition challenges order dated 30 August 2023 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies, Mumbai City(4), granting certificate of Unilateral Deemed Conveyance in favour of Respondent No.2 Society. The only grievance that is sought to be raised before this Court is that Petitioner is the sole surviving partner in respect of the Firm-M/s. Kapadia Builders, who was the Promoter in respect of the building in which the flat purchasers have formed Respondent No.2-Society. It is sought to be urged that Petitioner

did not receive any notice of application for Deemed Conveyance and that the Society secured Deemed Conveyance Certificate by impleading dead persons.

2) There is no dispute to the position that Respondent No.2-Society is formed in respect of flats constructed in the buildings on the land in question. The flats were sold to the flat purchasers after the year 1985. Despite passage of considerable period of time, the land was not conveyed to the Society. This is not a case involving lay out development. In that view of the matter, I do not see any remote right of the Petitioner in the land, which is conveyed to the Society. Once building is constructed and flats are sold by utilising FSI sanctioned by the Planning authority, the Promoter's title in respect of the land get diluted and the Promoter becomes liable to transfer his right, title and interest in the land and building in favour of Society formed by flat purchasers. The Competent Authority has merely ensured that right, title and interest of the Promoter is passed on to the Society of the flat purchasers. Merely because there are disputes among the persons claiming to be partners of Promoter (M/s. Kapadia Builders) the same cannot be a reason for indefinitely delaying conveyance of the land and building in favour of the Society. Disputes, if any between the persons claiming to be partners of the Firm need to be agitated in a court of law and not before the Competent Authority. If the Petitioner has any grievance with regard the land conveyed in favour of the Society or believes that he continues to remain owner in respect

of any portion of the land, which is conveyed to the Society, it will be open to the Petitioner to file appropriate Suit to claim a declaration about ownership of land in question.

3) I therefore, do not find any valid reason to entertain the present Petition. Writ Petition is devoid of merits and is accordingly rejected.

[SANDEEP V. MARNE, J.]