

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

WRIT PETITION NO.10855 OF 2024

Nagraj Jain Sangarmalji
V/S

....Petitioner

Dist. Deputy Registrar
Co-operative Societies & Ors.

....Respondents

**WITH
WRIT PETITION NO.10856 OF 2024**

Nagraj Jain Sangarmalji
V/S

....Petitioner

Dist. Deputy Registrar
Co-operative Societies & Ors.

....Respondents

Mr. Bhavin Shah with Mr. Latesh Fariya and Mr. Gaurav Pathak *for Petitioner.*

Mr. Y D. Patil, AGP *for Respondent Nos.1 and 4 / State.*

Mr. Gauraj Shah a/w Mr. Vir Patel i/b Mr. Ravish A.Mishra *for Respondent No.2.*

Mr. Anil Anturkar Senior Advocate i/b Mr. Abhishek Patil *for Respondent No.3-Society.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 3 APRIL 2025.**

P.C.:

1. These Petitions challenge orders dated 13 August 2021 and 29 April 2022 passed by the Competent Authority and District

Deputy Registrar, Co-operative Societies, Mumbai City (4), granting certificates of unilateral deemed conveyance thereby conveying leasehold rights in respect of land and buildings in favour of the Respondent-Societies.

2. I have heard Mr. Bhavin Shah, the learned counsel appearing for the Petitioner, Mr. Patil, the learned AGP appearing for Respondent Nos.1 and 4/State, Mr. Gauraj Shah, the learned counsel appearing for the Respondent No.2 and Mr. Anturkar, the learned Senior Advocate appearing for Respondent No.3-Society.

3. After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that Petitioner is a lessee by virtue of lease executed in its favour on 14 September 1978 by Respondent No.2-Trust. It appears that under the lease deed, there was an obligation on the part of Petitioner to construct four rooms/flats for Respondent No.2-Trust. Disputes apparently arose between the Trust and Petitioner about non-fulfillment of obligation arising out of the Lease Deed. The Trust apparently proceeded to terminate the lease deed and thereafter filed Suit No.1157 of 1991 in this Court *inter alia* seeking prayers for specific performance of obligations arising out of lease deed. It appears that on an application being made by the Trust, this Court proceeded to appoint Court Receiver in the said suit. There is debate amongst the learned counsel appearing for the Petitioner and the learned counsel appearing for Respondent

No.2-Trust about the exact property on which the Court Receiver was appointed. According to the Petitioner, the Court Receiver was appointed in respect of entire plot of land whereas according to Mr. Shah, the Court Receiver was appointed only in respect of the four rooms. In my view, it is not necessary to enter into that debate.

4. During pendency of the suit, Petitioner constructed two buildings on the plot in pursuance of lease executed in its favour. Flat purchasers of the two buildings have formed and registered Co-operative Housing Societies. Occupation Certificate in respect of both the buildings have been issued. Petitioner thus came under statutory obligation under Section 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (**MOFA**) to transfer his leasehold rights in respect of the land as well as constructed portion of buildings in favour of the two Societies. What is done by the Competent Authority is merely to step into the shoes of the Petitioner by ensuring that statutory obligation under Section 11 of the MOFA is fulfilled. The impugned orders result in conveyance of leasehold rights in respect of land admeasuring 1629.40 square meters and 751.70 square meters in favour of the Respondent-Societies. Thus the Petitioner is now divested of his right, title and interest in the land in question and the two Societies have now become lessees of Respondent No.2-Trust.

5. The only point that is sought to be agitated before me is that it was impermissible for the Competent Authority to grant leasehold right in respect of land on which there was a Court Receiver appointed by this Court. In my view, mere pendency of disputes between Respondent No.2-Trust and Petitioner relating to performance of rights and obligations under the lease deed could not have been a reason for Petitioner to escape the statutory obligations under Section 11 of the MOFA to transfer his right, title and interest in the land and building in favour of collective bodies formed by the flat purchasers. Even otherwise, the said Suit has ultimately been partly decreed in favour of Respondent No.2-Trust only to the limited extent of direction against the Petitioner to pay an amount of Rs.30,00,000/-. So far as the leasehold rights are concerned, the same are not affected by the decree passed in the said suit.

6. In my view therefore, there is no infirmity in the impugned orders passed by the Competent Authority. Both the Petitions are accordingly **dismissed**.

(SANDEEP V. MARNE, J.)

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