

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13653 OF 2024

Shantidevi Lalchand Changalal Foundation **... Petitioner**
Versus
Borivali Gulmohar Co-Op.
Housing Soc. Ltd And Ors **... Respondents**

Mr. Pranit Kulkarni *i/b Mr. Umesh Kumar for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATE : 10 FEBRUARY 2025.

P.C. :

1) The challenge in the present Petition is to the order dated 7 November 2022 passed by the District Deputy Registrar, Co-operative Societies, Mumbai City (4) and Competent Authority granting Unilateral deemed conveyance of land ad-measuring 2941.82 sq.mtrs. in favour of Respondent No.1-Society.

2) I have heard Mr. Kulkarni, the learned counsel appearing for Petitioner and have considered the submissions canvassed by him.

3) It appears that the promoter in respect of the flats constructed on conveyed land was Ansal Properties and Industries Limited, who is impleaded as Respondent No.3 to the Petition. The promoter is not aggrieved by the order of deemed conveyance . The learned counsel for the Petitioner admits the position that Respondent No.3 is a joint venture between the Petitioner and the Developer executed for the purpose of development of the plot. It

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therefore becomes questionable as to how one of the members to the joint venture can individually file the present Petition when the joint venture, which is a legal entity, has not decided to challenge the order of deemed conveyance .

4) Even if the objection of locus of the Petitioner to file the present Petition is to be momentarily ignored, I do not find any valid reason to interfere in the impugned order dated 7 November 2022. The Competent Authority has relied upon certificate of architect in which the architect has made detailed calculation of the total plot area available for development, built up area utilized for construction of Building No.1-Wing A, B and C, Building No.1-Wing D and E and Building No. 2. He has accordingly suggested division of the total land proportionately in accordance with the built up area utilized for construction of the three buildings. I therefore do not find any palpable error in either calculations made by the architect or in the order passed by the Competent Authority directing conveyance of land ad-measuring 2941.82 sq.mtrs. in favour of Respondent No.1-Society.

5) By now it is well settled position that the certificate of unilateral deemed conveyance is not determinative of final rights and entitlements of parties to the conveyed land. The aggrieved parties are always at liberty to question the land conveyed in favour of the society by filing Civil Suit. Petitioner would also be entitled to question the area of land conveyed in favour of Respondent No.1-Society by filing suit before Civil Court. I am therefore not inclined to entertain the present Petition. Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]