

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

WRIT PETITION NO. 16948 OF 2024

Edmund Joseph Gonsalves and Ors

... Petitioners

Versus

Saikrupa Housing Society Ltd and Ors

... Respondents

Mr. Sujay Gawade *a/w Ms. Sumedha Dhopate, Mudita Pawar and Manasi Sawant i/b Shree & Co. for the Petitioners.*

Ms. Kavita N. Solunke, *AGP for Respondent No.1-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 5 FEBRUARY 2025.

P.C. :

1) The Petition challenges order dated 25 April 2024 passed by the Competent Authority & District Deputy Registrar, Co-operative Societies (2), East, Suburban, Mumbai granting certificate of unilateral deemed conveyance of the land and building in favour of Respondent No.1-Society. Petitioners contend that the Developer/Promoter did not have right to construct building or sell flats to the flat purchasers. It is sought to be suggested that the development is carried out by the Promoter merely on the basis of Power of Attorney, which is forged and fabricated. In my view, Petitioners will have to avail the remedy of filing a suit if they believe that the Promoter did not have title for construction of building or that his title cannot be conveyed to the society. The remit of enquiry under Section 11 of Maharashtra Ownership Flats

(Regulation of the Promotion of Construction, Sale, Management and Transfer) Act 1963 is in a narrow compass. Under Section 11, the Competent Authority can transfer Promoter's right, title and interest in the land and building in favour of a society as per the Agreement executed under Section 4 of the Act. In such limited scope of enquiry, the Competent Authority is not expected to adjudicate contesting claims to the title of the land between the original owners and the Promoter. I am therefore, not inclined to entertain the present Petition.

2) Reserving the remedy for the Petitioners to initiate appropriate action before the Civil Court, the Petition is **disposed of**.

[SANDEEP V. MARNE, J.]