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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1045 OF 2025

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Madhukar Govind Patil & Anr.

... Petitioners

V/s.

District Deputy Registrar,

Palghar & Anr.

... Respondents

Mr. Anil D'Souza with Mr. Mark Dbritto i/by Mr. Ernest
N. Tuscano for the petitioners.

Mr. R.S. Pawar, AGP for the respondents-State.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 29, 2025

P.C.:

1. The challenge in this writ petition under Article 227 of the Constitution of India, invoking this Court's supervisory jurisdiction to correct jurisdictional errors, manifest arbitrariness, or patent illegality, assails the order passed by the Competent Authority under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("MOFA"). The impugned order grants deemed conveyance in favor of Respondent No. 2 – Housing Society, purportedly in furtherance of the statutory mandate under Section 11(3) of MOFA.

2. Learned counsel for the petitioners, emphasizing the statutory sanctity of agreements executed under Section 4 of

MOFA, drew this Court's attention to the express terms of the development agreement and individual flat purchaser agreements. He underscored that the subject land admeasuring 274 sq. mtrs. (out of the total 424 sq. mtrs.) was expressly delineated as the project's scope, with the adjoining chawl area unequivocally excluded from the contractual framework. It was argued that Respondent No. 2, through misrepresentation and suppression of the contractual bifurcation, erroneously induced the Competent Authority to grant deemed conveyance over the entire 424 sq. mtrs., thereby contravening the statutory rights of the petitioners under Section 4 of MOFA, which binds the Society to the terms agreed upon with the developer. Counsel asserted that the Authority's order, by conflating the excluded chawl area with the contractual parcel, usurps the petitioners' proprietary rights and violates the rule of law embodied in MOFA.

3. The legal position governing such disputes is settled by the authoritative pronouncements of this Court. In **Zainul Abedin Yusufali Massawawala & Ors. v. Competent Authority, District Deputy Registrar of Co-op. Housing Societies, Mumbai & Ors. (2016 SCC OnLine Bom 6028)**, the Division Bench unequivocally held that the Competent Authority, while adjudicating a deemed conveyance under Section 11 of MOFA, cannot travel beyond the four corners of the agreements executed under Section 4. The Authority's jurisdiction is confined to enforcing the contractual rights crystallized in such agreements and cannot adjudicate extraneous claims or title disputes over excluded properties. The Bench clarified that aggrieved developers retain the remedy of

seeking declaratory reliefs before the Civil Court under Section 9 of the Code of Civil Procedure, 1908, to establish their title or interests over properties alleged to have been wrongfully included in a deemed conveyance. This principle was reiterated in **Tanish Associates & Ors. v. The State of Maharashtra & Ors. (2016 SCC OnLine Bom 12653)** and **Mazda Construction Co. & Ors. v. Sultanabad Darshan CHS Ltd. & Ors. (2012 SCC OnLine Bom 1266)**, where it was held that collateral challenges to the scope of deemed conveyance, particularly where title disputes or contractual ambiguities arise, must be adjudicated by the Civil Court, being beyond the Authority's limited statutory mandate.

4. In light of this jurisprudential consistency, this Court is of the considered view that the petitioners' grievances regarding the Competent Authority's alleged overreach— in granting conveyance over the excluded 150 sq. mtrs. (424 sq. mtrs. minus 274 sq. mtrs.) — fall squarely within the realm of civil jurisdiction. While the Authority is statutorily empowered to execute deemed conveyance for properties expressly governed by MOFA agreements, it lacks jurisdiction to resolve competing claims over excluded parcels or to interpret contractual ambiguities with finality. Consequently, the petitioners' recourse lies in instituting a civil suit.

5. For these reasons, and in furtherance of judicial prudence to avoid forum incongruity, the writ petition is disposed of with the above clarifications. No order as to costs.

6. It is expressly clarified that all factual and legal contentions raised in this petition, shall remain unprejudiced and open for adjudication in appropriate civil proceedings. Should the petitioners initiate such proceedings, the Civil Court shall independently evaluate the merits uninfluenced by the prima facie observations in this order, in accordance with the evidence led and applicable law.

(AMIT BORKAR, J.)