

M/s Mark Buildcon and Ors	...	Petitioners
V/s.		
The State of Maharashtra through Ministry of Cooperation and Ors.	...	Respondents

Mr. Piyush P. Hushing with Gitanjali Hirkar, for the petitioners.
Mr. J.P. Patil, AGP, for the State/Respondent No. 1.

CORAM : N.J. JAMADAR, J.
DATE : 4th SEPTEMBER 2025

PC:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to the judgment and order dated 17th March 2025, passed by the Deputy Registrar, Co-operative Societies, thereby granting a certificate of deemed conveyance under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (for short, MOFA).
3. The learned counsel for the petitioner submitted that an effective opportunity of hearing was not given to the Petitioners. It was further

submitted that the area in respect of which the Deputy Registrar has issued the certificate of deemed conveyance is in excess of the entitlement of the Respondent No.3 Society.

4. The submission that no effective opportunity of hearing was given to the Petitioners, appears to be against the weight of the material on record. The impugned order records that Advocate Kaustubh Walwaikar had appeared on behalf of Petitioner No.1 on 7 October 2024. Thereafter, the Petitioners did not participate in the proceedings despite public notice having been published in the newspaper.

5. On the merits of the matter, the principal challenge of the Petitioners is that the certificate of the deemed conveyance has been issued for an area in excess of the entitlement of the Respondent No.3.

6. It is trite, the Competent Authority does not decide the question of title. Despite the grant of certificate of deemed conveyance and execution and registration of the deemed conveyance, the aggrieved party can institute a civil suit for the determination of title to the property, in respect of which a deed of deemed conveyance has been executed.

7. The High Court is not expected to interfere with the order under Section 11 of the MOFA, 1963 in the absence of a manifest illegality (*Arunkumar H Shah Huf. Vs. Avon Arcade Premises Co-Operative Society Limited & Ors*¹). No such manifest illegality or perversity is evident in the impugned order. Nor the order suffers from any jurisdictional defect or procedural irregularity. The Petition, therefore, does not deserve to be entertained.

8. Writ Petition stands dismissed.

(N.J. JAMADAR, J)

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