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

WRIT PETITION NO.8532 OF 2024

Airoli Neha Apartment Coop.

Housing Society Limited

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

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GANESH
KULKARNI

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Mr. Yogendra M. Kanchan i/by YMK Legal for the
petitioner.

Dr. Dhruti Kapadia, AGP for respondent Nos.1 & 2-
State.

Mr. Sachin Mane with Ms. Shraddha Pawar and Mr.
Shreeniwas Magar i/by Mr. Dilip Bodake for
respondent No.3.

Mr. Dipesh Yadav with Mr. Snehil Rai i/by Mr. Surendra
Yadav for respondent No.4.

Mr. Rohit Sakhadeo for respondent No.6-NMMC.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 4, 2026

P.C.:

1. The petitioner has approached this Court challenging the order dated 12 December 2023 passed by the Competent Authority. By the said order, the application for deemed conveyance came to be rejected. The rejection is not on merits of entitlement. It is mainly on the ground that, in an earlier proceeding, this Court had granted liberty to the petitioner to approach the Planning Authority first, and only thereafter to pursue further remedies including deemed conveyance. The

Competent Authority has taken the view that the petitioner has not followed that sequence.

2. It is therefore necessary to refer to the earlier order dated 2 February 2023. The relevant clause reads as follows:

“3. ... The petitioner is accordingly permitted to take up the issues with the Planning Authority and/or any appropriate authority and thereafter take recourse to either get the assignment of the plot in its favour from the CIDCO and/or as the law may require.”

3. This clause must be read in its plain and ordinary meaning. The Court did not finally decide rights of the parties at that stage. It only granted liberty. The liberty was twofold. First, to raise the issue before the Planning Authority or other appropriate authority. Second, after doing so, to take recourse to such remedies as may be permissible in law.

4. On careful reading of the above clause, it becomes clear that the Court contemplated a step-by-step approach. The petitioner was expected to first approach the Planning Authority and seek resolution of issues relating to the plot. Thereafter could further proceedings be initiated, including proceedings for assignment from CIDCO or any other statutory remedy available under law. The order does not dispense with this requirement. Nor does it permit the petitioner to bypass the Planning Authority altogether.

5. In that view of the matter, the proper course for the petitioner is to first make a representation before the Planning Authority raising all relevant issues concerning the plot. Such authority is expected to examine the representation on its own

merits. Therefore, the petitioner is permitted to submit a detailed representation before the Planning Authority within two weeks from today. If such representation is filed, the Planning Authority shall consider and decide the same in accordance with law within four weeks from the date of receipt. The authority shall give brief reasons for its decision so that the parties are aware of the basis of such conclusion.

6. After the Planning Authority takes a decision, it will be open to the petitioner to file a fresh application for deemed conveyance before the Competent Authority. Such application shall be decided independently and in accordance with the provisions of the statute governing deemed conveyance. The Competent Authority shall not reject the application on the same technical ground which weighed with it earlier, namely that prior liberty was not exhausted. The matter shall be considered afresh on its own merits.

7. With these directions, the writ petition stands disposed of. There shall be no order as to costs.

(AMIT BORKAR, J.)