

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2590 OF 2016
WITH
WRIT PETITION NO. 2591 OF 2016

Rajesh Construction Company Pvt Ltd ...Petitioners
Versus
The District Deputy Registrar & Ors ...Respondents

**Mr Vishal Kanade, with Priyanka Desai & C Nageshwaran, i/b
Khaitan & Co., for the Petitioners in both the Writ Petitions.**

CORAM: G.S. PATEL, J
DATED: 12th February 2019

PC:-

1. These Writ Petitions were kept along with a group of others including Writ Petition No. 391 of 2014. In the present Writ Petitions, I issued Rule on 13th November 2017. I briefly summarised the conspectus in paragraph 3 of my order dated 22nd January 2019 as follows:

"3. Writ Petition No. 2590 of 2016 is filed by one Rajesh Construction Co Pvt Ltd. It has two aspects to it. The first is the correctness of an order permitting formation of what I can only call breakaway societies, i.e., societies formed of two of several wings of what is otherwise a single building. This is quite distinct from an interpretation of Section 11 of

the MOFA and it seems to be common ground that no application under Section 11 has yet been made. The apprehension is that if the various wings in the building are allowed to be balkanized, with each forming its own society rather than there being one society for the entire building, there will be multiple applications for unilateral deemed conveyance. The two questions are distinct. All these matters were clubbed and placed before me and have remained part-heard only on the question of an interpretation of Section 11 of MoFA in the context of a layout development. This matter may, therefore, need separate directions even as to listing for admission on the question that arises under Section 10 of the MOFA. List Writ Petition No. 2590 of 2016 for admission and orders on 24th January 2019 at 3.00 pm."

2. Mr Kanade for the Petitioners points out that Rule having been issued, there is no immediate apprehension since, as far as his clients are aware, there is no application for a deemed conveyance that will prejudice the Petitioners' rights and contentions.

3. For these reasons, it is presently not necessary to make any further order on the Writ Petitions. It is sufficient to note that the Petitioners have already been afforded liberty to apply to the Court if Respondents Nos. 3, 4 and 5 or any of them make an application for a deemed conveyance.

4. In addition, I will direct Respondents Nos. 1 and 2, the District Deputy Registrar and the Deputy Registrar, to ensure that, should they receive an application for a deemed conveyance from Respondents Nos. 3, 4 and 5 or any of them either under Section 11

of the Maharashtra Ownership of Flats Act 1963 or under the applicable Rules of the Real Estate (Regulation and Development) Act 2016, the Registrar will ensure that notice is given to the Petitioners and the Petitioners are heard before passing any final order.

5. These Writ Petitions may be accordingly segregated from the other matters in the group.

(G. S. PATEL, J)