



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Special Leave Petition (C) No.8594 of 2025

M/s V. P. Patel and Brothers

...Petitioner

Versus

**Laxmi Complex Commercial Premises Coop.
Society Ltd. & Ors.**

...Respondents

ORDER

1. The petitioner is aggrieved by the impugned judgment of the High Court which refused to interfere with the order of '*unilateral deemed conveyance*' issued by the Competent Authority under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963¹. The petitioner-builder's contention is that the petitioner was not issued with a notice and afforded a reasonable opportunity of hearing as stipulated under the Act of 1963 read with Maharashtra Ownership Flats (Regulation of

¹ for short, 'the Act of 1963'

the Promotion of Construction, Sale Management and Transfer) Rules, 1964². Based on the above order of the Competent Authority, a deed of conveyance was registered by the Sub-Registrar, Haveli No.17, Pune, which, as a consequence was refused to be interfered with by the impugned judgment.

2. In the writ petition under Article 227 of the Constitution of India, the learned Single Judge noticed that the building was constructed on a plot admeasuring 3031 sq. meters out of which 1157 sq. meters was deducted for road widening. The conveyance was of the balance land of 1874 sq. meters as is indicated in the occupancy certificate which is also evidenced from the report of the Architect of the petitioner, dated 29.08.2023.

3. Mr. Abhay Anil Anturkar, learned counsel, appearing for the petitioner would contend that deliberately a wrong address was shown in the application filed before the Competent Authority. From Annexure P1; the order passed by the Competent Authority, it is pointed out that the address of the respondent-society and the builder is one and the same. From

² for short, 'the Rules of 1964'

the sale agreement entered into with the purchasers, it is pointed out that the address of the registered office of the petitioner was clearly shown therein. It is also pointed out from the Rules of 1964 that the service can be effected only by way of registered post, acknowledgement due and the publication made, in that circumstances cannot be accepted.

4. Mr. Shirish K. Deshpande, learned counsel appearing for the respondent-society, on the other hand would submit that notice was issued on the same address since the petitioner was also having an office in the building constructed. The petitioner had not issued the conveyance despite the registration of a society of the flat owners and in such circumstances, the society was constrained to proceed under the Act of 1963. The notice was issued which was returned, it is argued, deliberately an attempt to avoid service and in that circumstance, the publication was taken out with leave of the Competent Authority. It is also pointed out that there were various civil proceedings pending between the society and the builder, which fact is suppressed by the petitioner. The society had filed a suit for injunction, in which the temporary injunction prayed for, was rejected against which they have approached the

appellate court, being the District Court, Pune. In the very same suit, defendants too had filed an application seeking an order of status quo which was declined for reason of a status quo order existing in MCA No.263 of 2024 issued on 25.10.2024 by the District Court. The said appeal was filed against the rejection of an injunction application in a suit filed by the builder/petitioner against the Municipal Corporation, wherein, deliberately the respondent-society was not impleaded. The appeal stood dismissed against which a writ petition is filed before the High Court in which there is a status quo order.

5. The respondent-society approached the Competent Authority under the Act of 1963 as provided under sub-section (3) of Section 11, which enables a cooperative society, company or association of apartment owners to approach the concerned Competent Authority with the true copies of the registered agreement for sale, executed by the promoter with each individual member of the society, for issuing a certificate for a '*unilateral deemed conveyance*' and registration of the same on the promoter failing to carry out the conveyance within the prescribed period. Sub-section (4) of Section 11 of the Act of 1963 also speaks of an inquiry after giving the builder a

reasonable opportunity of being heard. The prescribed time for conveyance of title by the promoter to the purchasers is provided under Rule 9 of the Rules of 1963; which is four months from the date on which the cooperative society or the company is registered or the association of plot purchasers is duly constituted and when a declaration is submitted by a promoter under the provisions of the Maharashtra Apartment Ownership Act, 1970 and no period for conveying the title is agreed upon, even then, the promoter is obliged to execute the conveyance in favour of each apartment purchaser within four months of the purchaser taking possession of the apartment.

6. True the rule provides for notice by registered post acknowledgment due or certificate of posting. Notice having been issued the matter was posted on very many days after which publication was taken out. There is no ground to find a wrong address having been given since the builder, though had given possession of the individual apartments, the conveyance of the same along with the undivided share of land having not been effected the common areas remained in the possession of the builder, who is also liable for the maintenance till a conveyance is effected after the cooperative society,

company or association of the purchasers is formed/ constituted. The contention that the builder had an office in the premises cannot be brushed aside lightly. Having failed to effect service in the manner provided in the rules, i.e.: by registered post acknowledgment due, the further proceedings cannot be frustrated merely by reason of the postal service having not been effected. In the circumstance there was no infirmity in the Competent Authority having directed substituted service by publication in a newspaper having circulation in the area.

7. The petitioner's contention was only on the procedure adopted by the Competent Authority to issue notice, as evident by the petition under Article 227; which we have found to be unassailable. It is trite that once the procedure is found proper there cannot be a judicial review on the merits, which also has not been effectively pleaded. There is no dispute that the conveyance was not given within the period provided. The contention is that out of the land lying contiguous, there was an open land which remained in the ownership and possession of the builder. The apartment owners, however, contended that based on the document produced by the petitioner itself, as an

additional document Annexure A3 herein, the conveyance was only of 1874 sq. meters of land wherein the building, called the 'Laxmi Complex' has been erected. Annexure A3 is a certificate issued by the petitioner's Architect, based on which the learned Single Judge found that out of a total extent of 3031 sq. meters, 1157 sq. meters is deducted for road widening, and the building has been built on the balance land of 1874 sq. meters. It is also mentioned that the Floor Space Index (FSI) of the complex coming to 2623.60 sq. meters is relatable to the net plot area of 1874 sq. meters. This is the property which had to be conveyed to the society comprising individual flat purchasers.

8. We find absolutely no reason to interfere with the judgment of the High Court. However, we make it clear that since civil disputes are pending between the parties, the conveyance definitely would be subject to the orders passed in the said case. It goes without saying that the observations made herein or by the High Court would not regulate the final decision in the civil proceedings, which will have to be taken to its logical conclusion on the basis of the evidence led therein.

9. The Special Leave Petition is rejected with the above observation.

10. Pending application, if any, shall stand disposed of.

..... J.
(AHSANUDDIN AMANULLAH)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI
DECEMBER 10, 2025.