

District Deputy Registrar, Co-operative Societies, Mumbai City (4)

Competent Authority U/s 5A of the MOFA, 1963

Bhandari Bank Building, 2nd Floor, P.L.Kale Guruji Marg, Dadar (W), Mumbai 400 028

No.DDR-4/Mum./D.C./ Om Shivkrupa CHSL / 3082/2021

Date: - 17/12/2021

Order of Deemed Conveyance and Certificate U/s 11 of the MOFA, 1963

Application No. 01 Of 2021

Ref.:-

1. Section 3 and 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.
2. Rule 9, 11, 12 & 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules 1964.
3. The conferment of the powers under section 5A of the Maharashtra Ownership Flats Act, 1963 issued by Housing Department on 23rd June, 2008 and the same has been further amended on 25th February, 2011 and on 9th January 2013.
4. Application of Om Shivkrupa Co-operative Housing Society Ltd., submitted to this office on dated 11.12.2020.
5. Hearings held from time to time in the said matter.

Om Shivkrupa Co-operative Housing Society Limited

Plot No. 9,10,11 & 12, CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097.

...Applicant

Versus

1. M/s. Gautam Builders
Through Narendra Jadhavji Thakkar
Last Known address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
2. M/s. Amalgamated Building Corporation
Last Known address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
3. Mr. Popat Karson Shah
CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097



4. M/s. Jaysarang CHSL
CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
5. Hajibabu Bhai Nadiadwala Charity Trust
CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
6. Om Gautam CHSL
CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
7. M/s. Multisource Power and Development LLP
Having address at Floor 4, Plot No. 226/30, Chamber Bhavan,
Near Cotton Exchange, Bhuleshwar, Kalbadevi, Mumbai-2.
8. Shree Mukesh Ramchandra Shimpi
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
9. M/s. Arihant Construction
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
10. M/s. S.S. Developers
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
11. Dharmendra CHSL
CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
12. Durga Parmeshwari CHSL
CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,



Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097

13. Union Bank of India Employees
(Durga Parmeshwari CHSL)
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
14. Mr. Ashish Premdhari Singh
(Structure Occupier)
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
15. Brij Kutir CHSL
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
16. Shivalaya CHSL
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
17. Varsha CHSL
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
18. Shri Ram Kunj CHSL
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097
19. Om Shivsagar CHSL
Having address at CTS No. 12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097



... Opponents

JUDGEMENT:

1. The Applicants are the Members of a Co-Operative Housing Society viz. "Om Shivkrupa Co-operative Housing Society Limited" bearing Reg. No. BOM/WP/HSG/TC/8846/1995-96 Dated 21/09/1995 formed U/s.10 of the MOFA, 1963 and duly registered under the M.C.S. Act, 1960 having its address CTS No. 12-A/A/1A/1/1 of Village Pahadi Goregaon East, Taluka Goregaon, Mumbai Suburban District having office at Haji Bapu Road, Malad (East), Mumbai-400097 ., have applied to this office on dated 11.12.2020 vide its application No. 01 of 2021 in form No. VII as prescribed in the MOF Act.
2. The application is filed under section 11(3) and section 11(4) of the Maharashtra Ownership Flats Act, 1963 (hereinafter referred to as the "said Act") and under Rules 11, 12 and 13 of the Maharashtra Ownership Flats Rules, 1964 (hereinafter referred to as the "said Rules").
3. The application is in prescribed form no. VII along with following relevant documents :-
 - a) The payment of fees of Rs. 2000/- (GRAS /Online/ Court fee/ Treasury Challan)
 - b) Copy of Resolution passed at Special / Annual General Meeting held on dt 29/08/2019
 - c) Copy of Society Registration Certificate dated 21/09/1995.
 - d) Copy of Agreement for Sale executed between M/s. Gautam Builders and one of the Flat purchasers dated 25/01/1975.
 - e) Copy of Property Card dated 17/09/2020
 - f) Copy of building plan dated 26/04/1975
 - g) List of present members with their details in prescribed format.
 - h) Copy of the Legal Notice dated 15/10/2020 sent to the Opponents by the Applicant.
 - i) Copy of the Occupation Certificate.
 - j) Affidavit dated thereby stating that the documents submitted are true and correct and this Applicant have not approached any Court in the matter of Deemed Conveyance and if the documents are not true and correct then they will be liable for punishment under IPC.
4. On receipt of the above documents, this office issued Notice in Form No. X vide letter no. DDR-4/Mum/deemed conveyance/Notice/11/2021 dated 04.01.2021 and public notice dated 04.01.2021 in order to give sufficient opportunities to all the



- parties concerned as required under the Act and the principles of natural justice.
5. The hearing was conducted on various dates and after giving proper opportunities to all the parties concerned, the matter was closed for order on 26/08/2021 with the liberty to file written statements/final arguments till 06/09/2021.
- On behalf of applicant society Adv. Hitesh Rajpurohit and Adv. Vishal Pathak was present and submitted written submissions.
 - On behalf of Opponent No 19, Adv. Nikita Jadhav was present and filed written submission.
 - Other opponents were not present.
6. In the present application the applicant has prayed to get the certificate issued by this Competent Authority that the applicant is entitled to have unilateral deemed conveyance of land admeasuring 1838.19 Sq. Mtrs. out of land admeasuring 7744.7 square meters bearing CTS No. 12-A/A/1A/1/1 of Village- Pahadi Goregaon (East), in the Mumbai Suburban District within the Registration District and Sub- District of Mumbai City and Mumbai Suburban, situated at Haji Babu Road, Malad East, Mumbai-400097 along with the Building standing thereon.
7. It is observed that, the building of the applicant society is having only one wing i.e. A wing and as per the list submitted by the applicant, the applicant society is having 46 flats.
8. It is observed that, as per the latest Property card, submitted by the applicant society the land bearing CTS No. 12-A/A/1A/1/1 is admeasuring 7744.7 sq. mtrs. and the name of M/s Amalgamated Building Corporation i.e. Opponent No.2 is appeared as the landowner. It is observed that the larger layout is subdivided and the land holding by some of the other societies and structure holders in the layout i.e. M/s. Jaysarang CHS., Hajibapu Bhai Nadiadwala Charity Trust, Om Gautam CHS., Dhanendra CHS., Durga Parmeshwari CHS., Union Bank of India Employees Durga Parmeshwari CHS. is deducted from the larger layout and the area is remained 7744.7 sq. mtrs.
9. As per the MOFA agreement submitted by applicant, by agreement dated 06.12.1972, the land owners as per property card have sold the land to Popat Karson Shah (i.e. opp. no. 03 in this application) and thereafter opp. no. 03 have sold the rights, title and interest in the land to Narendra Jadhavji Thakar, the sole proprietor of Gautam Builders (i.e. Opp. No. 01 in this application). There is no any dispute regarding title of the land which is to be transferred in the name of society. the last land owners as per Title of the Agreement (i.e. Opp. No. 03 as per this application) have granted

Development rights to the builders / developers (i.e. Opp. No. 01 in this application). There is no any dispute regarding title of the land which is to be transferred in the name of society.

10. It is observed that, the Opponent No.1 M/s. Gautam Builders as a developer constructed and completed building after having all the permissions from the concerned authorities. After completion of the building, the builder has sold the flats to various purchasers and entered into agreement for sale of flats with the individual purchasers of flat as required by Section 4 of MOFA, 1963.
11. It is observed that after the formation of society, promoter / landowners have failed to execute the conveyance in favour of the applicant which they are legally entitled to have as provided under the said Acts & Rules made thereunder.
12. The Opp. No. 19 during the hearing of case, has filed the Intervention application which is summarized as follows:
 - a. That the Present Intervention Application is filed before the Hon'ble Competent Authority to intervene in the Application No. 01 of 2021 by the Applicants under section 11 under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 before the Hon'ble Competent Authority.
 - b. That the Applicants have filed the aforesaid application before the Hon'ble Competent Authority to obtain Unilateral Deemed Conveyance of their society land bearing CTS No. 12-A/A/1A/1/1 totally admeasuring about 8381.0 square meters in the Revenue Village of Pahadi Goregaon (East), Taluka Goregaon within the Registration District and Sub-District of Mumbai City and Mumbai Sub-Urban.
 - c. That the building of the Interveners society is also standing on the aforesaid larger land alongwith the Applicant society, irrespective of which the applicants have not included the intervener society as a party in the aforesaid application
 - d. That the intervener society also has rights, title, interest in the said larger land, therefore this Authority be pleased to permit the interveners in the captioned application, for which the interveners shall duty bound humbly pray.
13. The applicant submitted their written Arguments which are summarized as follows:



- a. The Applicants are the members of Om Shivkrupa Co-Operative Housing Society Limited, formed under section 10 (1) of the Maharashtra Ownership Flat (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as "the Act") duly registered under the Maharashtra Co- Operative Societies Act vide Registration No. BOM/WP/HSG/TC/8846/1995-96 dated 21/09/1995 and having its registered office at Plot No. 9, 10, 11 & 12 corresponding to CTS No. 12-A/A/1A/1/ 1 of Village Pahadi Goregaon East, Taluka Goregaon, Mumbai Suburban District having office at Haji Babu Road, Malad (East), Mumbai – 400097.
- b. The Society is situated at Plot No. 9, 10, 11 & 12 corresponding to CTS No. 12-A/A/1A/1/1 of Village Pahadi Goregaon East, Taluka Goregaon, Mumbai Suburban District having office at Haji Babu Road, Malad (East), Mumbai-400097 admeasuring about 1838.19 square meters (One Thousand Eight Hundred Thirty Eight Decimal One Nine) plus appropriate portion in recreational ground and the undivided & uninterrupted & unhindered access, use, occupation, utilization, possession, ownership, claim having undivided and common amenities which are already constructed and also eligible for the existing as well as all the further proposed amenities, facilities, common areas proposed and or to be created or to be constructed on the said plot of Land.
- c. The Opponents have failed to execute a conveyance for conveying the right, title and interest of the Opponent no. 1 in the Property in favour of the Applicants, which they are legally entitled to have and enjoy as provided under the Act and the rules made there under.
- d. The Applicant hereby submit that the Opponent No. 19 i.e. Om Shiv Sagar CHSL had appeared in this matter but did not file their reply which means they have no objection to this application for Deemed Conveyance.
- e. This Competent Authority be pleased to issue a certificate of entitlement of Unilateral Deed of Conveyance of land admeasuring about 1838.19 (One Thousand Eight Hundred Thirty Eight Decimal One Nine) square meters, as specifically set out in (the Property Registration Card) and building plan of the Om Shivkrupa Co- Operative Housing Society Limited, in favour of the Applicants as the same falls within jurisdiction of this Hon'ble Competent Authority.



14. On perusal of the above submissions and documents submitted by the applicants / the concerned parties, it is observed that:
- The Opponent no. 19 has filed their intervention application claiming right, title and interest in the same layout and therefore the opp. no. 19 is impleaded as a party Opponent in the matter. However, no other replies or written arguments were submitted by them.
 - The Application for Unilateral deemed conveyance is supported by a certificate of Architect Mr. Aniket Mathakar which is protecting the rights title and interest of the Opponent No. 19.
 - It is observed that the Applicant Society has submitted all the required documents as per the G.R. dated 22/06/2018.
15. It is observed that as per approved building plan and the architect certificate submitted by applicant, the applicant society is entitled to get the unilateral conveyance of the land admeasuring 1838.19 sq. mtrs., being sub divided plot No.9,10,11 & 12 out of area admeasuring 7747.70 being part of plot bearing CTS no. 12-A/A/1A/1/1 of village Pahadi Goregaon East, Taluka Borivali, in the Mumbai Suburban District within the Registration District and Sub- District of Mumbai City and Mumbai Suburban together with the building situated thereon.
16. Therefore, with the above observations and after going through all the documents submitted by the concerned parties and after relying on all the documents and submissions made by them, I am of the opinion that the application filed by the “Om Shiv Kripa Co-operative Housing Society Ltd.,” is fit to allow and grant the Unilateral Deemed Conveyance.

Hence, I pass following order.

ORDER

In exercise of the powers conferred upon me U/s 5A of the Maharashtra Ownership Flats Act, 1963, I, **Dr. Kishor Mande**, the Competent Authority & District Deputy Registrar, Co-operative Societies, Mumbai City (4), hereby allow the application No. 01 of 2021 and grant the Unilateral Deemed Conveyance in favour of the “Om Shiv Kripa Co-operative Housing Society Ltd.,” situated at Plot No. 9,10,11 & 12, CTS No. 12-A/A/1A/1/1 of Village Pahadi Goregaon East, Taluka Goregaon, Mumbai Suburban District having office at Haji Babu Road, Malad (East), Mumbai-400097. Accordingly, I am issuing certificate of entitlement of Unilateral Deemed Conveyance. I also direct the applicant society, to register the Deemed Conveyance Deed as per



Registration Act, 1908. However, this order is issued on the basis of documents and information submitted by the Applicant and in the belief that the information/documents furnished by the Applicant are true and correct. And if the documents submitted by the applicant are not true and correct then the applicant will be responsible for the legal consequences arising out of it.

This Order is passed under my seal and signature.

Place: Mumbai

Dated: 17/12/2021

(Dr. Kishor Mahde)
District Deputy Registrar,
Co-operative Societies, Mumbai City (4)
Competent Authority
U/s 5A of the MOFA, 1963



**Certificate of Deemed Conveyance under sec. 11 of the
Maharashtra Ownership Flats Act. 1963.**

Deemed Conveyance

Application No. 177 of 2021

CERTIFICATE

In exercise of the powers conferred on me U/s 5 (A) of the Maharashtra Ownership Flats Act, 1963, I, **Dr. Kishor Mande**, Competent Authority & District Deputy Registrar, Co-operative Societies, Mumbai City (4), hereby certify that "Om shiv Kripa Co-operative Housing Society Ltd.," is entitled to have Unilateral Deemed Conveyance of land admeasuring 1838.19 sq. mtrs., being sub divided plot No.9,10,11 & 12 out of area admeasuring 7747.70 being part of plot bearing CTS no. 12-A/A/1A/1/1 of village Pahadi Goregaon East, Taluka Borivali in the Mumbai Suburban District within the Registration District and Sub- District of Mumbai City and Mumbai Suburban alongwith the building situated thereon.

Place : Mumbai

Dated : 17/12/21



(Handwritten signature)

(Dr. Kishor Mande)
District Deputy Registrar,
Co-operative Societies, Mumbai City (4)
Competent Authority
U/s 5A of the MOFA, 1963

To,

1. Om Shivkrupa Co-operative Housing Society Limited
Plot No. 9,10,11 & 12, CTS No.-12-A/A/1A/1/1 of
Village Pahadi Goregaon East, Taluka Goregaon,
Mumbai Suburban District having office at
Haji Babu Road, Malad (East), Mumbai-400097.
2. The Sub Registrar office, Borivali Taluka.
3. The opponent no. 1 to 19.

(Handwritten signature)

District Deputy Registrar,
Co-operative Societies, Mumbai City (4)
Competent Authority
U/s 5A of the MOFA, 1963.