

District Deputy Registrar, Co-operative Societies, Mumbai City (3)

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

Mhada Building, Ground Floor, Room No. 69, Bandra East, Mumbai-400051.

No.DDR-3/Mum/D.C./ Neelam Apartment CHSL / /2024

Date: - 15/10/2024

3175

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

Application No. 126 of 2024.

Ref.:-

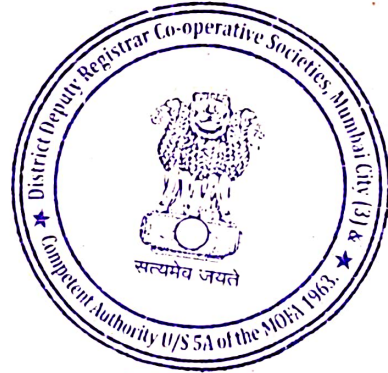
1. Section 3 and 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.
2. Rule 9, 11, 12 & 13 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Rules 1964.
3. The conferment 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 Neelam Apartment Co-operative Housing Society Ltd., submitted to this office on dt. 01.07.2024.
5. Hearings held from time to time in the said matter.

Neelam Apartment Co-operative Housing Society Limited,
Mount Mary Road, Bandra (W), Mumbai- 400050

...Applicants

Versus

- 1) K.B. Coksi
- 2) Dr. Burjor Eduljee Daruwalla
- 3) Nariman Eduljee Daruwalla
- 4) Kanti Builders Private Limited
Through Mr. Kantilal Gowani
Land bearing CTRS no. 810, 811 and 812 of
Village : Bandra B- Ward, Taluka –Andheri,
Mount Mary Road, Bandra West,
Mumbai – 400050.
- 5) M/s. Neelam Enterprises
Through Mr. Champalal Vardhan
303, Commerce House,
140 Nagindas Master Road,
Fort, Mumbai – 400023.



... Opponents

JUDGEMENT:

1. The Applicants is a Co-Operative Housing Society viz. "Neelam Apartment Co-

operative Housing Society Limited” bearing Reg. No. BOM/WHW/HSG/TC/2075/1986-87 Dated 19.08.1986 formed U/s.10 of the MOFA, 1963 and duly registered under the M.C.S. Act, 1960 having its address at Mount Mary Road, Bandra (W), Mumbai- 400050 have applied to this office on dt. 01.07.2024 vide its application No. 126 of 2024 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 alongwith following relevant documents :-
 - a) The payment of fees of Rs. 2000/- (Online)
 - b) Copy of Resolution passed at Special General Meeting held on dt. 20.01.2024.
 - c) Copy of Society Registration Certificate dated 19.08.1986.
 - d) Copy of Agreement for Sale executed between M/s. Neelam Enterprises and one of the Flat/unit purchasers dated 18.12.1984.
 - e) Copies of Property Cards dated 10.05.2024.
 - f) Copy of Commencement Certificate dated.27.12.1982.
 - g) Copy of building plan dated 05.05.1983.
 - h) List of present members with their details in prescribed format.
 - i) Copy of the Legal Notice dated 07.05.2024 sent to the Opponents by the Applicant.
 - j) Copy of the Self Certificate regarding Occupation Certificate dated 01.07.2024
 - k) Affidavit/ Self Declaration dated 01.07.2024 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-3/Mum/deemed conveyance/Notice/2136/2024 dated 12.07.2024 and public notice dated 30.07.2024 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 22.08.2024.
 - a) On behalf of applicant society Adv. Nishi Rawal and Adv. Rajani Bhakuni were present.



b) Opponent 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 entire piece and parcel of land admeasuring 1566.1 sq. meters from land bearing Non Agricultural Survey No.188 comprising corresponding CTS No.810, 811 and 812 of Village- Bandra B-Ward, Tal- Andheri, along with the building standing thereon in favour of applicant society.
7. It is observed that, the building of the applicant society is comprising of basement plus ground plus 13 floors as per the list submitted by the applicant, the applicant society is having 38 flats.
8. It is observed that, as per the latest Property card submitted by the applicant society the land bearing CTS No. 810 is admeasuring 367.10 sq. mtrs., CTS No. 811 is admeasuring 60.20 sq. mtrs., CTS No. 812 is admeasuring 1138.80 sq. mtrs., the name of Opponent No.01 i.e. K.B. Choksi appears as landowners.
9. As per the MOFA agreement submitted by applicant, Dr. Burjor Eduljee Daruwalla and Nariman Eduljee Daruwalla the trustees of the Deed of Settlement dated 19.09.1928 were the owners of the land.
By an Agreement for Sale contained in the recording letter dated 29.04.1979 the said Dr. Burjor Eduljee Daruwalla and Nariman Eduljee Daruwalla agreed to sell to Kantilal Builders Pvt. Ltd. or to their nominee or nominees the said property.
Kantilal Builders Pvt. Ltd. have nominated M/s. Neelam Enterprises as their nominee and the said Burjor Eduljee Daruwalla and Nariman Eduljee Daruwalla by their letter dated 31.10.1980 have confirmed the same.
M/s. Neelam Enterprises have paid to Dr. Burjor Eduljee Daruwalla and Nariman Eduljee Daruwalla the entire sale price of the said property and are in possession of the said property as owners of the said property.
M/s. Neelam Enterprises have also procured an Irrevocable Power of Attorney from the said Dr. Burjor Eduljee Daruwalla and Nariman Eduljee Daruwalla pursuant to the said Agreement for Sale dated 29.04.1979 to do all acts, deeds so as to develop the said property. 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. 5 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 / units to various purchasers



and entered into agreement for sale of flats with the individual purchasers of flat / shops 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. It is observed that as per approved building plan / architect certificate/ property card/ agreement for sale submitted by applicant, the applicant society is entitled to get the unilateral conveyance of entire piece and parcel of land admeasuring 1566.1 sq. meters from land bearing Non Agricultural Survey No.188 comprising corresponding CTS No.810, 811 and 812 of Village- Bandra B-Ward, Tal- Andheri, in Mumbai Suburban District within the Registration District and Sub- District of Mumbai City and Mumbai Suburban alongwith the building situated thereon.
13. Therefore, with the above observations and after going through all the documents submitted by the applicant and after relying on all the documents and submissions made by them, I am of the opinion that the application filed by the "Neelam Apartment Co-operative Housing Society Ltd.," is fit to allow and grant the Unilateral Deemed Conveyance.

Hence, I pass the following ex-party order.

ORDER

In exercise of the powers conferred upon me U/s 5A of the Maharashtra Ownership Flats Act, 1963, I, **Rajendra Veer**, the Competent Authority & District Deputy Registrar, Co-operative Societies, Mumbai City (3), hereby allow the application No. 126 of 2024 and grant the Unilateral Deemed Conveyance in favour of the "Neelam Apartment Co-operative Housing Society Ltd.," situated at Mount Mary Road, Bandra (W), Mumbai- 400050. 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

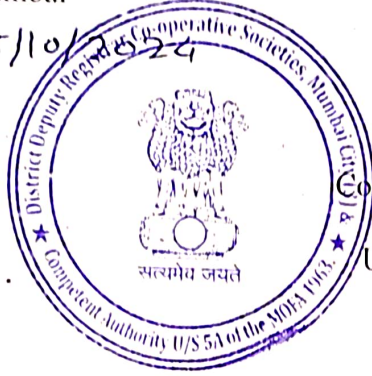


consequences arising out of it.

This Order is passed under my seal and signature.

Place: Mumbai

Dated: 15/10/2024



(Rajendra Veer)

District Deputy Registrar,
Co-operative Societies, Mumbai City (3)
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

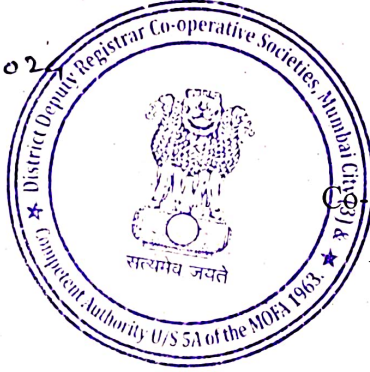
Application No. 126 of 2024.


CERTIFICATE

In exercise of the powers conferred on me U/s 5 (A) of the Maharashtra Ownership Flats Act, 1963, I, **Rajendra Veer**, Competent Authority & District Deputy Registrar, Co-operative Societies, Mumbai City (3), hereby certify that "Neelam Apartment Co-operative Housing Society Ltd.," is entitled to have Unilateral Deemed Conveyance of of entire piece and parcel of land admeasuring 1566.1 sq. meters from land bearing Non Agricultural Survey No.188 comprising corresponding CTS No.810, 811 and 812 of Village- Bandra B-Ward, Tal- Andheri, in Mumbai Suburban District within the Registration District and Sub- District of Mumbai City and Mumbai Suburban alongwith the building situated thereon.

Place : Mumbai


Dated : 15/10/2024




(**Rajendra Veer**)
District Deputy Registrar,
Co-operative Societies, Mumbai City (3)
Competent Authority
U/s 5A of the MOFA, 1963

To,

1. Chairman /Secretary
Neelam Apartment Co-operative Housing Society Ltd.,
Mount Mary Road, Bandra (W), Mumbai- 400050.
2. The Sub Registrar office, Andheri Taluka.
3. Opponent No. 01 to 05.


District Deputy Registrar,
Co-operative Societies, Mumbai City (3)
Competent Authority
U/s 5A of the MOFA, 1963.