

Sunil Rajaram Bajaj ... Petitioner
versus
Shraddha Vilas Mhatre
and Another ... Respondents

2] The learned counsel for the Petitioners submitted that the decree and execution, had

provided for allotment of shop having area 180 sq. ft. each and flat of 550 sq.ft. each to the decree holder. In terms of the approved plans, the Petitioner has constructed shops and flats, which however admeasured 260 and 680 sq.ft. respectively. In such circumstances, the learned counsel for the Petitioner contends that the decree as made, has been rendered in-executable. In any case, without prejudice, the learned counsel for the Petitioner submits that the Petitioner will have no objection to hand over the shops and flats with increased area, provided the decree holders pays at current market rate for the additional area.

3] Having heard the learned counsel for the parties, perused the impugned order as well as the records, in my judgment, there is no reason to entertain the present Petition. The learned executing Court has rightly observed that the Petitioner, cannot refuse to handover the possession in terms of consent decree which was made way back on 18th July, 2008, upon the specious

plea that the decree has become in-executable owing to increase in area of flats and shops. Further the learned executing Court has kept the issue of payment for the additional area, open for consideration.

4] There is no reason to interfere with the impugned order because it is only fair and proper that the decree holders gets fruits of the consent decree. It is noted that the decree in the present case relates to the year 2008.

5] If at all, there is any requirement for payment towards additional area, the impugned order itself notes that the Petitioner will have the liberty to invoke proper provision or initiate proper proceeding. However, there is no reason to withhold the delivery of possession of the flats and shops to the decree holders.

6] In case, any application is made by the Petitioner claiming additional price for the excess

area, the same will be duly considered by the executing Court in accordance with the law and on its own merits. However, before making such application, the Petitioner in compliance with the warrant of possession shall ensure that the possession of the shops and flats is handed over to the decree holders.

7] With the aforesaid clarification, the present Petition is dismissed.

8] There shall be no order as to cost.

(M. S. SONAK, J.)