

(WP 720 of 2010)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION No. 720 OF 2010

Gangadhar Pujari

....Petitioner

Vs.

BMC and Ors.

....Respondents

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Mr.Ramesh Ramamurthy for Petitioner

Mr.Vijay D. Patil for Respondent No.2

Mr.S.G. Surana for Respondent Nos.3 and 4

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CORAM : V. M. KANADE &  
G.S. KULKARNI, J.J.

DATE : APRIL 13, 2015

P.C. :

1. The Petitioner claims an additional area as per the DC Regulation, Appendix IV, Clause 5.

2. On the other hand, the learned counsel for the Developer submits that by an agreement dated 10<sup>th</sup> September, 2004, the Petitioner had waived his right to get the additional area on receiving the consideration of an amount of Rs.25 lacs. It is submitted that this fact has been suppressed by the Petitioner in this Petition.

3. We have perused the Memorandum of Understanding. Clause 5 of the said Memorandum of Understanding reads that upon receiving the consideration of Rs.25,00,000/-, the Petitioner has no right, title and/or interest towards additional area which was to be

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given to him in the Rehabilitation Component of the proposed building. In this view of the matter, the Petitioner is now again claiming the additional area. It is submitted by the learned counsel for the Petitioner that the said agreement is not a registered agreement and, therefore, the right of the Petitioner cannot be taken away by an unregistered agreement.

4. In our view, this issue cannot be decided by this Court while exercising our writ jurisdiction under Article 226 of the Constitution of India. The Petitioner may exhaust an alternate remedy by filing a suit, if available in law. Reserving the said right of the Petitioner, the writ petition is disposed of.

[G.S. KULKARNI, J.]

[ V. M. KANADE, J.]