

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

LETTERS PATENT APPEAL NO. 3 OF 2016
IN
WRIT PETITION NO. 3838 OF 2012

Dr. Mrs. Anjana Vishnu Gholap Appellant

Versus

Sai – 'B' Co-operative Housing Society Limited Respondent

Mr. S. B. Chaudhari for Appellant.

CORAM : *NARESH H. PATIL AND
NITIN W. SAMBRE, JJ.*
DATE : *FEBRUARY 12, 2018.*

P.C. :

. This Letters Patent Appeal is preferred against the order passed by the learned Single Judge (Coram : Ranjit More, J.) dated 30th April, 2012.

2. The learned Counsel appearing for the Appellant submits that the learned Single Judge has committed error in dismissing the Petition filed by the Appellant herein. While the possession of the flat was handed over to the Appellant in the year 1997-98, it was noticed that 24 sq. ft. area was deficit in the total area which was promised by

the Builder/Developer to the Appellant. The learned Counsel submits that continuous representations were made to press the demand of the Appellant, but as it was noticed that there is no favourable reply, the Appellant had approached the District Consumer Dispute Redressal Forum. It is submitted that the Consumer Forum awarded compensation of Rs. 4,84,000/- by an order dated 19th June, 2000. Against that order, an Appeal was preferred.

3. The learned Counsel submits that in the year 2006 Society filed a Dispute No. 259 of 2006 in the Co-operative Court at Pune. By the Judgment and Order dated 6th September, 2010 that dispute was allowed by the Co-operative Court. The Co-operative Court declared that Appellant has no right over the pump house admeasuring 24 sq. ft. area adjacent to Flat No.2. Appeal has been preferred against the said Judgment and Order which came to be dismissed by the Maharashtra State Co-operative Appellate Court (Mumbai) Bench at Pune by the Judgment and Order dated 16th September, 2011. The Writ Petition No. 3838 of 2012 was preferred against the said Judgment and Order.

4. We have perused the record before us. We have considered the submission made across the bar. In the facts, we do not find any error in the order passed by the learned Single Judge. The views adopted by the Co-operative Appellate Court and the learned Single Judge are concurrent in respect of the question of facts. There is no merit in the Letters Patent Appeal. Appeal stands dismissed.

5. It is made clear that dismissal of the Appeal will not affect the merits of the Appeal filed under the Consumer Protection Act.

(NITIN W. SAMBRE, J.)

(NARESH H. PATIL, J.)