

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 CIVIL REVISION APPLICATION NO. 215 OF 2023

SHRI. HANUMAN SAHAKARI GRUHNIRMAN SANSTHA
MARYADIT, MANWATH THR. PRESIDENT GOPIKISHAN S.
SIKHWAL

....Applicant

VERSUS

SHANKAR SAKHARAM CHAUDHARI AND OTHERS

.....Respondent

.....

Advocate for the Applicant : Mr. Mahendra V. shingade h/f

Mr. Manish P. Tripathi

Advocate for Respondent No.4 : Mr. R.S. Bagal

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : October 14, 2024

ORDER:-

1. Heard finally at admission stage.
2. The learned counsel for the applicant i.e. original defendant No.2 Society is claiming that the learned trial Court should have rejected the plaint for want of notice under Section 164 of the Maharashtra Co-operative Societies Act, 1960. According to him, despite by filing of by-laws of defendant No.2 Society wherein it is specifically mentioned that object of defendant No.2 Society is of selling and purchasing the lands.
3. As against this, the learned counsel for respondent No.4

i.e. one of the plaintiffs, submits that the learned trial Court has rightly rejected the application (Exh.24) for rejection of the plaint since no by-laws of defendant No.2 Society were filed in the trial Court.

4. On going through the impugned order, it appears that the learned trial Court has rejected the application merely referring the contention of the plaintiff about some alleged assurance given by defendant No.2/1 in respect of the sale deed of the year 1971. However, there is no discussion on the part of the learned trial Court about the concept of touching to the business of the society. Moreover, the learned trial Court has also not discussed about the citations filed by the present applicant. Under such circumstances, it would be appropriate to direct the learned trial Court to pass reasoned order on the application at Exh.24 by discussing the necessity of notice under Section 164 in the light of concept of “touching to the business of the society” as observed in the Judgments cited on behalf of the applicant.

5. In view of the same, the impugned order dated 05.09.2023 is hereby set aside with direction to learned trial Court i.e. Joint Civil Judge, Senior Division Parbhani to decide

the application at Exh.24 afresh by considering all the legal provisions in respect of contention raised by the present applicant in the said application within three months from the receipt of this order.

6. The application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

Y.S. Kulkarni