



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

WRIT PETITION NO. 15803 OF 2023

Madhukar Gopal Waghole And Another

VERSUS

Prabhat Nagar Backward Class Society Through Its Manager And Another

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Mr. A.P. Deshmukh, Advocate for the Petitioners

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 19th DECEMBER, 2025

ORDER :

1. Heard learned counsel for the petitioner .
2. By this petition, petitioners assail the order dated 28.05.2020 passed by learned Co-operative Court, Nanded in proceeding bearing No. C.C.N. No. 128/2016, which was confirmed by the Maharashtra State Co-operative Appellate Court, Mumbai by order dated 27.01.2022.
3. Mr. Ashish Deshmukh, learned counsel for the petitioners submits that petitioners filed dispute under section 91 in relation to Plot No. 17-B belonging to respondent No. 1/Society. He submits that before filing the dispute, petitioners filed R.C.S. No. 708/1992 for declaration of ownership and injunction and same came to be dismissed. He further

submits that once the Co-operative Court recorded a finding that the dispute is maintainable under Section 91, the Co-operative Court ought to have allowed the dispute.

4. Petitioners filed dispute before the Co-operative Court with a prayer for declaration that disputants are members of respondent No. 1/Society and are entitled for the allotment of the entire plot No. 17/B situated in respondent No. 1/Society along with declaration that the allotment of half portion of said plot in favour of respondent No. 2 illegal and against the provisions of law. Petitioners have also prayed for recovery of possession of western side half portion of plot No. 17/B and for the settlement of loan account.

5. Learned Judge of the Co-operative Court after considering the evidence led by the disputants framed issues and specifically issue no. 3 that, 'Do disputants prove that being legal heirs of member, they are entitled for allotment certificate of Plot No. 17/B admeasuring area 2250 sq.feet situated in opponent no. 1 Society?' On this issue, learned Judge has recorded a finding that there was an earlier resolution which was not challenged and has attained finality. Therefore, by recording this finding the dispute was rejected by the Co-operative Court and the same was confirmed

by the Co-operative Appellate Court.

6. As regards submission made by learned counsel for the petitioners about maintainability of the dispute is concerned, though the dispute was held to be maintainable, but the learned Co-operative Court decided the same on its merits and held that petitioners are not entitled for declaration of ownership and possession. Both the Courts by recording finding of facts have concurrently held against the petitioners. After going through the order passed by Co-operative Court and Co-operative Appellate Court, I do not find any perversity in the orders.

7. The writ petition is therefore dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE)
JUDGE