

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6637 OF 2024

Mrs. Sangeeta Manoj Patil

...Petitioner

V/s.

Vithal Ganpat Patil and Ors.

...Respondents

Mr. Sandeep Mishra with *Ms. Madhura Mulay for the Petitioner.*

Ms. Sapna Khobragade with *Ms. Gayatri Nayak, Ms. Lubdha Bhoir, Mr. Akash Tayade, Mr. Rajesh Khobragade for Respondent No.2.*

Mr. Nimesh Bhatt for *Respondent No.4.*

Mr. J.P. Patil, AGP for *Respondent No.5.*

CORAM: SANDEEP V. MARNE, J.

Dated: 7 April 2025.

P.C.:

1) Petitioner has filed this Petition challenging the corrigendum dated 13 February 2024 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies, Thane, modifying the certificate of Unilateral Deemed Conveyance dated 24 February 2014 and replacing the area of the land to be conveyed from 762.00 sq.mtr. to 1040 sq.mtr.

2) I have heard Mr. Mishra, the learned counsel appearing for the Petitioner, Ms. Khobragade, the learned counsel appearing for Respondent No.2-Society, Mr. Bhatt, the learned counsel appearing for Respondent No.4 and Mr. Patil, the learned AGP appearing for Respondent No.5-State.

3) Perusal of the order dated 24 February 2014 passed by the Competent Authority would indicate that the Competent Authority was aware of total area of land on 7/12 extracts as 1040 sq.mtrs. However, the Competent Authority apparently relied on certificate of architect produced by Respondent No.2-Society, in which Society's entitlement in respect of the land was restricted to 762 sq.mtrs. Thus, a conscious decision was taken by the Competent Authority on 24 February 2014 to convey land admeasuring only 762 sq.mtrs out of total land admeasuring 1040.00 sq.mtrs. After 9 long years of issuance of original certificate of deemed conveyance dated 24 February 2014 Respondent No.2 filed a rather terse application on 5 September 2023 for correction of area of land conveyed from 762 sq.mtrs. to 1040 sq.mtrs. It would be relevant to reproduce the contents of application dated 5 September 2023, which read thus:-

3. That due to clerical error claimed Area by society was mentioned as 762 Sq. Meter instead of 1040 Sq. Meter in the said application no- 689/2013 dated 21/09/2013, and subsequently order of Deemed conveyance Dated 24/02/2014 was issued for the same. The total area as 7/12 extract is 1040 Sq. Meter.

4) Thus, no justification was given by the Society as to why it was seeking correction from 762 sq.mtrs. to 1040 sq.mtrs. This Court has repeatedly held that Competent Authority does not have jurisdiction to issue corrigendum for correction of area indicated in Certificate of Unilateral Deemed Conveyance. Reference in this regard can be made to judgments of co-ordinate Bench of this Court in ***Kashish Park Reality Pvt. Ltd. and Another Vs. State of Maharashtra and Others***¹ and ***Prem Villa CHS Ltd. V/s. Uma Deep CHS Ltd and Ors.***²

5) Order passed by this Court in ***Jaywant Ramchandra Keni V/s. The Competent Authority District Deputy Registrar Co-operative Societies***³ was being relied on to mean as if the Competent Authority has jurisdiction to issue necessary corrections in the certificate of deemed conveyance. In ***Surya Corporation and Anr. V/s. The Competent Authority and Ors.***⁴ this Court has clarified as under:-

19. It may be that in a given case this Court would not interfere in a Corrigendum where same merely seeks to correct an obvious error in the certificate of unilateral deemed conveyance with a view to avoid any further litigation. The objective behind enacting the provision for unilateral deemed conveyance is after all to ensure that the collective bodies of flat purchasers ultimately becomes owner of the land and building. While issuing the certificate of deemed conveyance, if the Competent Authority commits either a clerical error in mentioning the description of the land or commits any other obvious error, and correction of such obvious error does not adversely affect any party, this Court may refuse to exercise

1 2021(3) Mh.L.J.

2 2024 SCC OnLine Bom 2987

3 Writ Petition (L) 8893 of 2023, decided on 19 January 2024.

4 Writ Petition No.13437 of 2024, decided on 20 February 2025.

jurisdiction under Article 227 of the Constitution of India considering peculiar facts of a case, as is done by this Court in Jaywant Ramchandra Keni. Where this Court finds that the technical ground of impermissibility to issue a Corrigendum is sought to be raised by a promoter just for the sake of disturbing the conveyance of due portion of land to the society, despite absence of any dispute relating to area entitlement, this Court can refuse to exercise extraordinary jurisdiction for setting aside a Corrigendum. However, where Corrigendum results in wholesale change in the original certificate of deemed conveyance, this Court would be justified in setting aside such corrigendum.

20. However, in the present case, the impugned Corrigendum travels far beyond the scope of an obvious error. There is a vast difference of land originally directed to be conveyed vide an order dated 22nd February 2021 and the land that is directed to be conveyed vide Corrigendum dated 15th March 2021. This, in my view, cannot be done by way of issuance of a Corrigendum. If Respondent No.3-Society was aggrieved by failure on the part of the Competent Authority to convey correct area of land in its favour, it ought to have challenged the order dated 22nd February 2021 in this Court instead of applying for issuance of Corrigendum to the Competent Authority.

6) In view of the consistent view taken by this Court that the Competent Authority cannot take recourse to issuance of corrigendum for correcting area of land to be conveyed, in my view the impugned corrigendum dated 13 February 2024 is clearly unsustainable. Reflection of area of land conveyed in favour of second Respondent -Society as 762 sq.mts. was not a clerical mistake which could have been corrected by way of corrigendum. It was a conscious call taken by the Competent Authority by relying on certificate of Society's own architect, who had recommended conveyance of land admeasuring only 762 sq.mtr. out of land admeasuring 1040 sq.mtr. The correction sought to be effected by the Competent Authority would clearly

travel beyond the scope of mere clerical or arithmetical error. Impugned corrigendum issued by the Competent Authority is thus beyond jurisdiction and is liable to be set aside.

7) Petition accordingly succeeds. Corrigendum dated 13 February 2024 issued by the Competent Authority is set aside. Writ Petition is allowed in above terms. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]