



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4829/2017

Shankar Bajirao Kulsunge Vs. Vivekanand Gruha Nirman Sahakari Sanstha Ltd.
Wardha and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Dhore, Advocate for petitioner.
Mr. A. P. Chorghade, Advocate for respondent No.1
Mr. J. L. Bhoot, Advocate for respondent No.2.

CORAM : ANIL L. PANSARE, J.

DATE : JULY 1, 2025

Petitioner is before this Court against concurrent findings rendered by both the Courts below viz. Cooperative Court and the Cooperative Appellate Court. The petitioner sought correction in the sale deed executed by and between petitioner and respondent No.1. Both the Courts below refused this prayer. Another prayer for removal of alleged encroachment made by respondent no.2 on petitioner's plot has been also turned down.

2. Heard both sides. I have gone through the material placed before me, particularly sale deed under question. It appears that respondent No.1 – Society has sold plot No. 73 to the petitioner. The area of plot, as mentioned in the sale deed, is 2229.4 Sq. Ft. (210.12 Sq. Mtr.). Counsel for the petitioner submits that in the sanction plan, plot No. 73, admeasures 2550 Sq. Ft.

3. The petitioner, without making request to respondent No.1 – Society, to correct the plot area in the sale deed, has directly approached the Cooperative Court under Section 91 of the Maharashtra Cooperative Societies Act, 1960. The Courts below have taken cognizance of the resolution passed by respondent No.1 – Society, saying that the plots on the spot vary in measurement.

Accordingly, a conscious decision was taken to allot plots of same measurement to all members irrespective of area shown in sanctioned plan. Thus, the decision was taken in the General Body Meeting dated 09.03.1980. The petitioner had not challenged the said resolution. In fact, the petitioner participated in the meeting. Accordingly, both the Courts below refused to correct the area in the sale deed. I do not find any perversity in the finding. The petitioner, participated in the General Body Meeting and supported the decision to allot plots of equal area.

4. So far as the encroachment at the hands of respondent No.2 is concerned, the Courts below noted that the petitioner has not placed on record necessary material to show such an encroachment.

5. Upon specific query made by the Court as regards evidence on this point, counsel for petitioner failed to show any cogent evidence in this regard. It appears that because of the variations in the measurements of plots, the issue of encroachment has arisen when, in fact, there is no encroachment if the resolution is given effect to.

6. In view of above, I do not find any reason to interfere with the concurrent findings. The petition is accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)