



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3530 OF 2025

(Shri Shivaji Gruh Nirman Sahakari Sanstha, Warud, by its President Vs. Rajendra Sheshrao Gedam & Ors.)

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

Court's or Judge's orders.

Mr. C.A. Babrekar, Counsel for the petitioner.

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CORAM : ANIL L. PANSARE, J.
JULY 8, 2025

Leave to correct prayer Clause (ii) by replacing Exh. 17 by Exh. 15, is granted.

2] Challenge is to order dated 21/10/2024 passed by the Member, Maharashtra State Co-operative Appellate Court Mumbai, Bench Nagpur, in Revision Application No. 23/2024. The Appellate Court dismissed the revision and upheld the finding rendered by the Co-operative Court, Amravati, rejecting the plea put forth by the petitioner – original opponent that the dispute is barred by law.

3] Having heard the Counsel for the petitioner and having gone through the material placed before me, it appears that the respondents have filed a dispute as regards allotment of plots to them by the petitioner – Society. The respondents sought declaration that they are owner of the plots allotted to them by the petitioner. They have further sought directions to the petitioner to not evict them without following due process of law. Thus, there are two prayers; one is, seeking declaration of ownership, another is, to not evict them.

4] The argument of the petitioner is that the Co-operative Court is not empowered to grant declaration of ownership.

5] At the outset, even if this plea is to be accepted, the second prayer, which seeks directions to not evict the respondents, will be still maintainable. It is well settled that the plaint cannot be partly rejected. That apart, both the Courts below have rendered a finding that though relief of declaration of ownership may not be granted by the Co-operative Court, the issue involved is about allotment of plots to the respondents. It appears that a pursis to that effect has been also filed before the Co-operative Court, and accordingly, both the Courts below have held, and rightly so, that the dispute is maintainable.

6] There is, thus, no substance in the petition. The petition is dismissed. No costs.

(ANIL L. PANSARE, J.)

Sumit