

Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SAYALI
DEEPAK
UPASANI

WRIT PETITION NO.6939 OF 2024

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Federation of Eden Woods Co-op HSG
Soc. Ltd

... Petitioner

V/s.

Godrej Properties Ltd and Others

... Respondents

Mr. Saurabh Oka, for Petitioner.

Ms. Aloka A. Nadkarni AGP for State-Respondent no.
4.

Ms. Viloma Shah with Harshad R. Vyas i/b AVP
Partners, for Respondent No. 1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 23, 2026

P.C.:

1. The present petition arises from the order dated 1st February 2023 passed by the Executing Court, by which the application filed by the petitioner was rejected. The petitioner had sought directions against the judgment debtor to furnish certain documents, namely certified copies of orders passed by the competent authority, transfer certificate, permission relating to the government survey map, and a no dues clearance certificate. The Executing Court took the view that such documents were not required to be supplied in execution proceedings.

2. The record shows that the execution proceedings are founded upon the consent terms dated 30th April 2005. Under those consent terms, defendant nos. 1 to 3 were under an obligation to execute conveyance of the suit property, along with all structures standing thereon, in favour of the petitioner society. The real dispute, therefore, is not about existence of the decree but about proper identification and demarcation of the land that is to be conveyed. In execution proceedings, the Court is bound to ensure that the decree is implemented in its true spirit. The Executing Court cannot adopt a narrow or technical approach which has the effect of reducing or diluting the rights already crystallised under the decree. Its duty is to make the decree workable and effective. If the decree requires identification of property on the ground, the Court must take practical steps to achieve that objective rather than refusing relief on procedural grounds.

3. By the impugned order, the Executing Court has recorded reasons for declining the request to direct the opponent to produce the documents sought by the petitioner. The Court appears to have proceeded on the footing that production of those documents was not essential for execution of the decree. However, while assigning such reasons, the Executing Court was required to keep in mind that execution is a continuation of the original proceedings and the decree holder cannot be left without an effective remedy. The issue is not merely whether documents can be demanded as a matter of right in every case, but whether

such documents are necessary for proper implementation of the consent terms. If the purpose of the request was to facilitate clear identification of the property and smooth execution of conveyance, the Court was expected to examine the request from a practical and purposive perspective. Execution proceedings must advance enforcement of the decree and not create avoidable hurdles.

4. The TILR has already produced a survey report of the year 2008. This document provides a starting point for identifying the land in question. However, if the Executing Court finds that the said survey is outdated, unclear, or insufficient for accurate demarcation on the ground, it would be appropriate to direct a fresh survey. Such a course would remove uncertainty between the parties and avoid future disputes regarding boundaries or extent of the property conveyed. Since both sides stand to benefit from a clear and final demarcation, fairness requires that the cost of conducting such survey be shared equally by the petitioner and the respondents.

5. Once the land is properly surveyed and the exact portion to be conveyed is clearly delineated on the ground, the Executing Court shall proceed to pass necessary orders for giving full effect to the consent terms. The conveyance must correspond to the area identified through the survey so that the decree is implemented in a definite manner. The Court must ensure that there is no ambiguity at the stage of conveyance, as uncertainty

at this stage may result in further litigation.

6. In view of the above discussion and directions, nothing further survives for consideration in the present petition. The petition is accordingly disposed of, leaving the Executing Court to carry forward the execution proceedings in accordance with the observations made herein and in a manner that fully satisfies the decree.

7. The survey report prepared in the year 2008 shall be supplied to both parties upon payment of the prescribed charges.

(AMIT BORKAR, J.)