



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2029 OF 2026**

Om Maheshwar Niketan Co-op. Hsg. Soc. Ltd. ... Petitioner
versus
The Sub-Registrar of Assurance Ward-2, Mumbai
and Ors. ... Respondents

Mr. Surel Shah, Sr. Advocate with Mr. Durgaprasad Sabnis, Mr. Tushar Shah,
Mr. Harsh Pathak i/by Durgaprasad Sabnis, for Petitioner.
Mr. Hamid Mulla, AGP for Respondent Nos.1 and 4.
Mr. Amogh Singh with Mr. Hemant Joshi, Mr. Atul Singh, for Respondent No.3.

CORAM: N.J.JAMADAR, J.

DATE : 23 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. By this Petition under Article 227 of the Constitution of India, the Petitioner – Society takes exception to an order dated 18 June 2025 passed by the Sub-Registrar, Mumbai – 22, under Section 83 of the Registration Act, 1908, whereby the Sub-Registrar declined to grant permission for prosecution for the commission of the alleged offences punishable under Section 82 of the said Act.
3. Khatau family was the owner of the land bearing Survey No.69, Hissa No.5, corresponding to CTS No.642, admeasuring 6830 sq. mtrs., situated at Chandavarkar Lane, Borivali (W), Mumbai. An Agreement for Sale was executed by the original owners on 19 January 1971 in favour of Popatlal

Curson Shah, and others. Subsequently, under the sanctioned layout, the property admeasuring 6477.32 sq. mtrs., was sub-divided into Plot No.1 (CTS no.642), Plot No.2 (CTS No.642A) and Plot No.3 (CTS No.642C) and a common recreation ground (Plot No.642B). Under a registered Indenture dated 30 March 1979, sub-divided Plot No.2 was conveyed in favour of the Petitioners' Society. Sub-divided plot No.3 admeasuring 2675.61 was conveyed under the registered Indenture dated 30 March 1979 in favour of Respondent No.3 society.

4. It is the grievance of the Petitioner that the purported Deed of Rectification came to be executed in respect of Plot No.3, whereby the area of the Plot No.3, conveyed to the Respondent No.3, was increased from 2675.61 sq. mtrs to 2985.30 sq. mtrs., without the knowledge, consent or notice to the Petitioner or other societies, forming part of the sanctioned layout. In view of the said rectification, the total sanctioned layout area stood unlawfully increased by approximately 309.69 sq. mtrs. The Petitioners' society, thus, lodged a complaint before the Sub-Registrar of Assurances for grant of permission to initiate the prosecution for the offence punishable under Section 82 of the Act, 1908.

5. By the impugned order dated 18 June 2025, the Respondent No.1 declined to grant permission without ascribing justifiable reasons. Hence, this Petition.

6. Mr. Surel Shah, learned Senior Advocate for the Petitioner, would urge that the rectification deed came to be executed by making a patently false statement. Not only the area of the plot conveyed to the Respondent No.3 stood unlawfully enhanced, but even the area of the total sanctioned layout plan, also got enhanced by 309.69 sq.mtrs. Deliberate and conscience false statements were made before the Registering Officer, in derogation of the sanctioned layout and approved building plan. Therefore, the offence punishable under Section 82(b) of the Registering Act, 1908, was clearly made out. Respondent No.1 was, thus, not justified in declining to grant permission by holding that, no false statement was made on behalf of Respondent No.3.

7. Mr. Amogh Singh, learned Counsel for Respondent No.3, supported the impugned order. It was submitted that the Petitioner has already instituted a suit before the City Civil Court being L.C.Suit No.3044 of 2023 seeking, inter alia, a declaration that the said Deed of Rectification dated 17 June 2011 is illegal, null and void and the same be set aside. By no stretch of imagination, Mr. Singh would urge, the alleged act attributed to the Respondent No.3, falls within the ambit of any of the clauses of Section 82 of the Act, 1908.

8. Section 82 of the Registration Act, 1908, reads as under :

“82. Penalty for making false statements, delivering false copies or translations, false personation, and, abetment

Whoever-

- (a) Intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act; or
 - (b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan; or
 - (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or
 - (d) abets anything made punishable by this Act,
- shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both."

9. The avowed purpose of Section 82 is to punish the offender for the commission of the offences in relation to the registration of the instrument. Thus, under clause (a), a person who makes a false statement intentionally in any proceeding or enquiry under the said Act, is liable to be punished. Clause (b) on which, emphasis was laid on behalf of the Petitioner, deals with the act of delivery of false copy of a document, map or plan, at the time of registration. Clause (c), on the other hand, punishes offence of impersonation. Clause (d) deals with the abetment of anything made

punishable under the said Act.

10. It is well settled that the role of the Sub-Registrar stands discharged once a document is registered. The fact whether the document was properly presented for registration cannot be reopened by the Registrar after its registration. The power to cancel the registration is a substantive matter. The fact whether the document was deceitfully executed and registered to cause loss or harm to the other party to the deed is the question of fact which must be pleaded and proved by the party making such allegations. A party aggrieved by the registration of the document is free to challenge its validity before the Civil Court **(Satya Pal Anand v/s. State of Madhya Pradesh and Ors.¹**.

11. It is equally well-settled that the registering authority is not expected to look into the correctness of the statement of facts made in the document tendered for the registration. It is not the duty of the registering authority to look into each and every statement of fact mentioned in the document and ask the party concerned to produce the documents in support of the recitals made therein. The grievance of making a false statement in the instrument, in contradistinction to a false statement or tendering a forged document, during the course of registration, does not fall within the ambit of Section 82 of the Act, 1908. A useful reference can be made to a Division Bench judgment of

1 (2016) 10 SCC 767

this Court in the case of **Aashirwad Developers V/s. State of Maharashtra and Ors.**²

12. In the case at hand, the gravamen of indictment against Respondent No.3 is that a false statement was made in the instrument while seeking rectification of the area. That grievance is beyond the ambit of the provisions contained in Section 82 of the Act, 1908 and can be lawfully agitated in an appropriate civil suit. As noted above, the Petitioner has already instituted a civil suit seeking such declaration.

13. Resultantly, the Petition does not deserve to be entertained.

14. The Writ Petition stands dismissed.

(N.J.JAMADAR, J.)

² 2015 SCC Oline Bom 6596