

In the Court of Judge, Co-operative Court Thane at Thane
(Presided over by Smt. B. P. Jadhav, Judge)

Dispute No. CCT 84/2023
CNR No. MHCO04-000084-2023

Dr. Suneel Deshpande

Disputant

V/S

Pushkaraj Prasad CHS Ltd. Thane

Opponent

Order below application Exh. 17
(Declared on 04/01/2025)

1. The present application is filed by the disputant for amendment in the dispute.
2. It is contended that after filing of the present dispute the opponent society levied exorbitant fine on the disputant alleging falsely that the disputant has encroached the open space of the society and fine of Rs. 1,37,295/- is levied from the month of October 2023 thereafter Rs. 15,225/- per month, till today under section 169(a) of the MCS Act without following any due procedure of law. The said amount of fine from the month of the October 2023 till the month of April 2024 is Rs. 2,50,025/-. The disputant has raised this issue before the Deputy Registrar of Co-operative Societies Thane. However no dispute is entertained by the said authority considering it is a dispute relating to parking space. Hence the disputant needs to add para No. 17(A) in the dispute as mentioned in the present application.
3. It is contended that the opponent has levied fine under section 169(a) without following due procedure of law from the month of October 2023. Hence these amendments are required to be carried out to safeguard the interest of the disputant. The disputant has already raised issue of parking in his complaint at para 15, 16, 17

hence additions as mentioned in the application will not change a nature of the dispute and no prejudice will be caused to the opponent. The disputant has filed application for stay before the Court on 21/10/2023 and the opponent has replied to it. Hence no prejudice will be caused to the opponent. Hence prayed to allow the amendment in the dispute.

4. The opponent filed reply at Exh. 21 and strongly opposed the present application as the application is bad in law and only an attempt made by them to duplicate the Court Proceedings and that the very context of the said matter made in the application was not the part of the main application made by the applicant and that it is not the main content of the matter herein or nor it is the subject matter of the application in hand. The applicant has only carried out the same with a view to confuse the Court and to escape from penalty which is imposed by the society.

5. It is contended that the applicant has also not given any proper details of any records of what he wants to pray from the Court, the exact bill numbers nor the details of what penalty under which bill or any details of such nature have not been mentioned by the applicant which again renders the same to be very much vague in nature and that the very motive of the applicant is to mislead the Court is clear enough.

6. It is contended that there are four stilt parking spaces which are owned by the respective flat owners as they have purchased those flats from the developer/builder at the inception level itself and those are not the common premises as misconstrued by the disputant, and hence for the other members it is a matter of choice to park their vehicles in the manner as they would deem fit,

the disputant has raised the grievances regarding new bye-laws with regards to the rotation car parking which has been implemented by the said society in the benefit of the members of the said society only. The disputant has not been a signatory to the said circular which was formed and circulated amongst all the members of the said society, however he has been following the said pattern till date and the grievance raised by him is in regards with the same parking rotation. The allegations made and leveled by the disputant against the opponent is baseless and does not hold any legal standing in the eyes of law.

7. It is contended that the rules and regulations are same for all in any conditions whatsoever. The disputant has to take note that, as per the AGM held by the opponent, it is decided to park only 1 two-wheeler per flat, hence in such case, any member of the said society has to adhere to the said rules and the excess has to be parked outside the premises of the said society and in case of any member found defaulting or violating the said rules shall be liable to face the consequences/ penalty for the same. The disputant has raised petty issues, wherein he is clearly trying to restrict the personal mobility of the members of the society which is unwarranted and unreasonable, the members have full right to talk and move freely in the society premises being within the limits of constitutional rights bestowed upon them being the resident of Thane and Citizen of free India, thus the disputant is trying to restrict their mobility is a malafide way of troubling them.

8. It is contended that the allegations put forth by the disputant are vague are totally baseless and with malafide intentions. Hence prayed to reject the application.

9. After hearing both the parties and perusing the documents on record following points arise for my consideration.

Sr. No.	Points	Findings
1	Whether the application is entitled to be allowed ?	In the affirmative
2	What order ?	As per final order

REASONING

AS TO POINT NO. 1 AND 2

10. After careful perusal of the entire proceeding, in the light of averments made in the present application and say filed by the opponent it is seen that the present dispute has been filed by the disputant praying to direct the society's office bearers to follow the laws and bye-laws of the society and to allow the disputant to park his wife's two-wheeler in the society premises, to take strict action against the discriminatory act of the opponent.

11. The disputant argued that after filing of the present dispute the opponent society levied exorbitant fine on the disputant alleging falsely that the disputant has encroached the open space of the society and fine of Rs. 1,37,295/- is levied from the month of October 2023 thereafter Rs. 15,225/- per month, till today under section 169(a) of the MCS Act without following any due procedure of law. The said amount of fine from the month of the October 2023 till the month of April 2024 is Rs. 2,50,025/-. The disputant has raised this issue before the Deputy Registrar of Co-operative Societies Thane. However no dispute is entertained by the said authority considering it is a dispute relating to parking space. Hence the disputant needs to add para No. 17(A) in the dispute as mentioned in the present application. The additions as mentioned in the

application will not change a nature of the dispute and no prejudice will be caused to the opponent.

12. It is seen that the opponent has strongly objected this amendment on the ground that the amendment if allowed will change the nature of the dispute and hence it cannot be permitted.

13. On careful scrutiny of the entire proceeding I am of the view that the amendment sought for is the subsequent event arises from the same cause of action.

14. It is a subsequent event that needs to be added for the effectual adjudication of the dispute by which no prejudice caused. Therefore I am of the view that if the amendment is allowed, nature of the dispute will not be changed and no prejudice as such would be caused to the opponent since the opponent has every right to file its written statement to proposed amendment. Hence in the interest of justice amendment sought for in the application needs to be allowed. Accordingly I pass the following order.

Order

1. Application at Exh. 17 is allowed.
2. The disputant is directed to carry out the amendment within 14 days from the date of this order.

Place : Thane
Date : 04/ 01 / 2025

Sd/-
(Smt. B. P. Jadhav)
Judge
Co-operative Court, Thane