

सहकार मित्र

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Equal or Unequal Maintenance in Housing Societies and Apartments

In co-operative housing societies, a recurring debate arises—should maintenance charges be equal for all members, or should they vary based on the size of the flat or share in common areas?

According to various legal interpretations and judgments, maintenance in co-operative housing societies is typically equal, regardless of the flat size. This principle was upheld in the case of **Venus Co-operative Housing Society Vs. Dr. JY Detwani**, where the Bombay High Court ruled that common amenities are used by all members, and thus larger flat owners cannot be made to pay more merely based on size. The Court emphasized that common facilities must be equally supported by all, as their usage is not dependent on the size of the apartment.

However, a different approach is followed under the Maharashtra Ownership of Flats Act (MOFA) and the Apartment Ownership Act, especially when it comes to condominiums governed by a Deed of Declaration. As seen in the recent case of **Sachin Malpani & Ors. Vs. Nilam Patil & Ors. (Writ Petition No. 9179 of 2022)**, the Bombay High Court held that under Section 10 of the Maharashtra Apartment Ownership Act, maintenance charges must be levied based on the undivided share in common areas. This means that larger apartments contribute more, as their ownership in the building's common areas is proportionately higher.

The judgment further clarified that the Deed of Declaration, being a registered document, governs the rights and obligations of apartment owners and can only be changed by another registered instrument.

Conclusion

- In **co-operative housing societies**, equal maintenance is generally valid.
- In **apartment associations**, especially under a registered **Deed of Declaration**, **unequal maintenance based on undivided share** is lawful and binding.

Thus, whether maintenance should be equal or unequal depends on the governing legal structure—co-operative society vs. apartment ownership under MOFA—and the documents executed by the members.

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सहकारी संस्थामधील वादासाठी योग्य न्यायालये

सहकारी संस्थेच्या कामकाजामध्ये सभासद , संस्था , बँका, जमिनीचे मालक इत्यादी अशा बऱ्याच व्यक्तींचा संबंध येत असतो . सहकारी संस्थेच्या वाद निराकरणासाठी उपनिबंधक , सहकारी न्यायालये , दिवाणी न्यायालये आणि महानगर पालिका इत्यादी वेगवेगळे फोरम उपलब्ध आहेत . वाद कशाविषयी आहे ह्यावरून दावा दाखल करण्याचे न्यायालये ठरवली जातात . चुकीच्या ठिकाणी दाद मागण्याने विनाकारण विलंब आणि इतर कायदेशीर प्रश्न तयार होऊ शकतात.

निबंधक: संस्थेची नोंदणी , भाग दाखला , सभासदत्व नाकारणे , ट्रान्स्फर फीस , लेखापरीक्षण आणि हिशोब , मॅटेनन्स ची वसुली इत्यादी विषय

सहकारी न्यायालये : संस्थेचे गठन ,संस्थेच्या निवडणुका , सर्वसाधारण सभा , संस्थेचे ठराव आणि संस्थेचे व्यवस्थापन इत्यादी

दिवाणी न्यायालये : जागेच्या मालकी संबंधी वाद , त्रयस्थ व्यक्तीसोबातचे दिवाणी स्वरूपाचे वाद

महानगर पालिका : सदनिका वापरातील बदल, ले आउट मधील बदल , मंजूर बांधकामात बदल , अतिक्रमण इत्यादी

टीप :वरील यादीमधील विषय हे सर्वसाधारण स्वरूपाचे असून प्रत्येक दावा हा वेगळा असतो . त्यामुळे तज्ञ कायदेशीर सल्लागाराकडून सल्ला घेणे उचित आणि आवश्यक असते .

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