

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(Civil Appellate Jurisdiction)

SECOND APPEAL NO. 462 of 2012

(Dhaku Balaji Tawate

Appellant

Versus

The Municipal Corporation of
City of Thanke and another

Respondents)

Mr. C.V.Lad, Advocate for appellant.

Mr. A.R.Pitale, Advocate for Respondent No.1

CORAM : R.K.Deshpande, J.

DATED : 24th JUNE, 2015.

P.C.

The trial Court has dismissed Special Civil Suit No. 88 of 1997 on 25.08.2000. The appellate Court has dismissed Regular Civil Appeal No. 72 of 2005 on 03.09.2011. Hence, the original plaintiff is before this Court against the concurrent findings of fact.

The finding is that the appellant has failed to establish the ownership over the suit property. It was an unauthorized construction, which has been demolished by the Corporation.

The learned counsel for the appellant submits that the action should have been taken

under the Maharashtra Regional and Town Planning Act, 1966 instead of the action being taken under the Bombay Provincial Municipal Corporation Act, 1949.

Both the courts below have held that the premises are located within the Municipal limit and the provision for removal of unauthorized construction is also contained under the Bombay Provincial Municipal Corporation Act, 1949. No substantial question of law arises, the second appeal is dismissed.

(R.K.DESHPANDE, J.)

Rvjalit