

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 236 OF 2014
WITH
CIVIL APPLICATION NO.78 OF 2012**

Shri Yashwant Tulshiararam Lokhande
Age : 60 years, occ. Retired
R/at 898, Kasba Peth
Pune-411 011

.. Appellant
(Original Plaintiff)

V/s

1. Shri Dnyaneshwar Satyavan Dhavle
Age 46 years, occ. Business
R/at : 898, Kasba Peth
Pune-411 011
2. Hon'ble Collector Pune
Collector Office, Pune-411 001
3. State of Maharashtra
1st Floor, High Court, Mumbai.

.. Respondents.
(Original Defendants)

Mr. S.G. Rajput, for Appellant.
Mr. Rajan Pawar, AGP, for State.

**Coram : Smt. R.P SondurBaldota, J.
Date : 30th March, 2015**

P.C.

1. This appeal is directed against the concurrent findings of facts as regards authorisation of the suit structure and encroachment by the appellant on the Government property by construction of the

structure. The Trial Court by its judgment and order dated 03rd September, 2007 dismissed the appellant's suit for protection of the structure by holding that the structure is an unauthorised structure and the appellant had failed to establish that the respondents were illegally trying to dispossess him from the suit premises. The appeal preferred by the appellant to the District Court being Regular Civil Appeal No.761 of 2007 came to be dismissed by judgment and order dated 19th August, 2011, confirming the findings of the Trial Court. The Appellate Court also held that the appellant does not have any right, title and interest in the suit property.

2. There is no dispute that the structure constructed by the appellant is on the Government land and that the appellant has no right thereto. He further claims that since he has been using the land for last 45 years, he is entitled for protection of his possession and the structure carried out by him.

3. The action against the structure of the appellant was taken on the complaint by respondent No.1 to Lokayukta that construction of three rooms and gallery on the Government Land carried out by the appellant has blocked the public road causing inconvenience to the people in the locality. Then, by the order dated

24th June, 1996, the S.D.O., Pune, directed Tahsildar to initiate the proceeding for removal of the encroachment from the Government land. The enquiry was conducted by City Survey Officer No.2, Pune which resulted into the conclusion that the appellant has encroached on the Government land by carrying out the illegal construction thereon. The City Survey Officer No.2, Pune Tahsildar issued notice dated 26th February, 1996 bearing No.Land-SR-73-96 to the appellant calling upon him to remove the encroachment from the suit land. Thus action was taken by respondent Nos. 2 and 3 u/s 50(2) of the Maharashtra Land Revenue Code, 1966. The appellant filed an application for regularisation on 29th February, 1996 to Sub-Divisional Officer, Pune, Sub-Division, Pune. By the letter dated 24th October, 1996, the appellant was informed that his request for regularisation was rejected. He was once again called upon to remove the encroachment. Instead of removing the encroachment, the appellant filed the suit herein seeking protection of his structure.

4. The conclusion of an unauthorised occupation of the Government land, as also carrying out an authorised construction by the Court below, is completely supported by material on record. There is no substantial question arising for consideration of the

Court. Hence, the appeal is dismissed.

5. In view of dismissal of the Second Appeal, the Civil Application does not survive and the same is disposed of.

(Smt. R.P. SondurBaldota, J.)