

Sequeira

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

**SECOND APPEAL NO. 693 OF 2015
in
CIVIL APPLICATION NO.1457 OF 2015**

1. Azimuddin Nizaamuddin Khan
since deceased per legal heir
Applicant No.2 herein-
2. Zameerkhan Azimuddin Khan .. Appellants

Versus.

Shirur Municipal Council. .. Respondent

Mr.Jaydeep Deo, for Appellants / Applicants.
None for Respondent.

**CORAM: N.M. JAMDAR, J.
Friday, 18 March 2016.**

PC. :

The Appellant challenges the orders passed by the District Judge, Pune and Civil Judge, Junior Division, Ghodnadi, Shirur dismissing the Appeal and suit filed by Appellants respectively.

2. The Respondent Municipal Council issued a notice to the Appellant under Section 53(1) of Maharashtra Regional Town Planning Act, 1966 for demolition of the structure in the suit property on the ground that it was unauthorisedly made. Both the Courts found that the notice issued on 23 July 2002 was valid and the Appellant made changes in the construction without proper

permission. Both the Courts assessed the evidence in detail to come to the conclusion that the suit structure was liable to be demolished.

3. The plot on which the structure is erected belongs to the Municipal Council and is reserved for parking space for vehicles and bazar. The Appellants made unauthorised encroachment of 13.8 ft x 87.7 ft and 19.6 ft x 76.3 ft and made a structure. The learned counsel for the Appellants relying upon cross-examination of the witness of the Respondent-Council submitted that the action was based solely upon a newspaper report without the Municipal Council verifying the authenticity thereof. This contention cannot be accepted. Firstly, the scope of the Suit challenging the orders under Section 53(1) of the MRTP Act of 1966 is an extremely limited. It is the Appellants who had approached the Court seeking reliefs. It was for the Appellants to establish their right. No permission for construction in question has been produced. Nothing is shown that the Appellants are owners of the suit property. In the circumstances, no question of law arises.

Second Appeal is accordingly dismissed.

(*N.M. JAMDAR, J.*)