

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (S) NO.322 OF 2017
IN
SECOND APPEAL ST. 7695 OF 2017.

SAU. HEMLATA CHANDRASHEKHAR INGOLE
VS
THE PRESIDENT, ZILLA PARISHAD, WARDHA AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. K. Bhoyar, Advocate for the appellant.

CORAM : A.S. CHANDURKAR, J.
DATED : JULY 25, 2017.

Prayer is to condone delay in filing second appeal.

The reasons for the cause of delay are mentioned in paras 3 & 4 of the application. The prayer is opposed by the learned Counsel for the non-applicants. However, considering the reasons mentioned in the application which appear to be acceptable, the delay stands condoned.

Civil application is allowed and disposed of.

SAST NO.7695 OF 2017.

The appellant is the original plaintiff who had filed suit for declaration that the plaintiff was a tenant of the premises occupied by Ahilyabai Mahila Mandal, Wardha. Further, injunction was sought not to remove the shed that was occupied by the plaintiff. According to the plaintiff she was the President of the aforesaid society and area admeasuring 150 sq. ft. was leased out

to the society on monthly rent of Rs.151/-. According to the defendants, it was denied that any tenancy right was created in the Society. In the year 1989, the Society was permitted to run an eating place after accepting a meager amount on humanitarian ground. It was pleaded that the notice under Section 280 of the Maharashtra Zilla Parishad and Panchayat Samittee Act, 1961 had not been issued.

The trial Court held that the plaintiff in an individual capacity was not the tenant of the premises. On account of absence of notice under Section 280 of the said Act, the suit came to be dismissed.

The appellate Court has confirmed these findings.

After hearing the learned Counsel for the appellant, I do not find that both the Courts committed any error in dismissing the suit. There was no written agreement placed on record by which the area admeasuring 150 sq. ft. was let out to the plaintiff. Though it was the case of the plaintiff that she was the President of the Society, no documents in that regard came to be filed. Similarly, absence of notice under Section 280 of the said Act is fatal to the case of the plaintiff.

Hence, no substantial question of law arises. Appeal is, therefore, dismissed. No costs.

JUDGE