

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Second Appeal No. 214 of 2016
[Vithal Govinda Sonwane Vs. Subhash Vitthal Badwe & others]

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

Court's or Judge's orders

Ms. Vijaya Thakre, Adv., for the appellant.
 Mr. S. Y. Deopujari, Adv., for respondent nos. 1 to 3,5 and 6.

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CORAM : A. S. CHANDURKAR, J.

DATE : 05th July, 2017

The appellant is the original defendant in Regular Civil Suit No. 8 of 2010 which was filed by the respondents for seeking possession of field no.15/1.

The defendant had filed Regular Civil Suit No.22 of 2009 against the present respondents seeking permanent injunction with regard to the same suit field. Both the suits were tried together by taking common evidence. The trial Court dismissed the suit filed by the present appellant and decreed the suit filed by the respondents. The appellant herein, however, did not file any appeal challenging the decree passed in Regular Civil Suit No. 22 of 2009 and only challenged the decree passed in Regular Civil Suit No. 8 of 2010. Being aggrieved by the judgment of the appellate Court, the present appeal has been filed.

In view of the admitted position that against the

judgment of the trial Court in Regular Civil Suit No. 22 of 2009, the appellant herein did not file any appeal and as the judgment of the trial Court deciding both the suits together proceeded on the basis of common evidence, the present appeal would not be maintainable in view of the law laid down by the Honourable Supreme Court in **Premier Tyres Ltd. Vs. Kerala State Road Transport Corporation** [AIR 1993 SC 1202]. Only one appeal having been filed against the common judgment of the trial Court, the present appeal cannot be entertained on merits.

Hence, the appeal stands dismissed with no order as to costs.

Judge

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