

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.368 OF 2016

Rahimtullakhan Rafiullakhan

-vs-

Pramila Ramdas Chaukhande and ors.

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

Court's or Judge's Orders.

Shri R. J. Shinde, Advocate for appellant.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 16, 2017

The appellant filed Regular Civil Suit No.10/1999 for perpetual injunction while the respondent No.1 filed Regular Civil Suit No.56/2004 for possession. Both the suits were tried together and were decided by a common judgment. The suit filed by the present appellant was dismissed while the suit filed by the respondent No.1 was decreed. Before the appellate Court the appellant filed Regular Civil Appeal No.62/2010 challenging the common judgment. The appellate court dismissed the said appeal.

It is not in dispute that the appellant has filed only one second appeal challenging the adjudication in Regular Civil Appeal No.62/2010. In Regular Civil Appeal No.62/2010 a challenge was raised to the judgment and decree passed in Regular Civil Suit No.10/1999 as well as Regular Civil Suit No.56/2004.

As no second appeal has been filed challenging the adjudication of Regular Civil Suit No.56/2004 that was filed by the respondent No.1 herein, it is clear that said adjudication has attained finality. The law in that regard is clearly laid down in ***Premier Tyres Limited vs. Kerala State Road Transport Corporation AIR 1993 SC 1202***. Hence, this appeal cannot be entertained on merits.

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

C.A.S. No.791 of 2016 also stands disposed of.

JUDGE