

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

**SECOND APPEAL NO. 85 OF 2015
WITH
CIVIL APPLICATION NO. 179 OF 2015**

Sanjay Baburao Sase ... Appellant
V/s.
Kolhapur Municipal Corporation & Anr. ... Respondents

- Mr.Sangramsingh Yadav for the Appellant.
- Mr.Suresh M. Kamble for Respondent No.1.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 6th JUNE, 2018.

P.C. :

1] Heard learned counsel for the Appellant and learned counsel for Respondent No.1.

2] The suit is filed by the Appellant bearing Regular Civil Suit No.845 of 2004 for injunction restraining the Respondent-Municipal Corporation from taking any action in pursuance of the notice issued under Section 487 of the BMC Act on 29/07/2004 and 16/08/2004 in respect of the construction of privy and bathroom. According to the case of the Appellant, the said construction was also shown in the sanctioned plan and it was quit old one. However, both the trial Court and the Appellate Court has come to the conclusion on the basis of the

evidence of the witnesses adduced before the trial Court that the said construction is new one. The reliance is placed for that purpose on the averments made by the Appellant himself in the suit bearing Regular Civil Suit No.576 of 2004 stating that the said construction was new one. An attempt to change the word “new construction” to “old construction” was also rejected. Even the witness for the Appellant has also failed to show that the construction of the privy and the bathroom was authorized after obtaining necessary sanction or permission from the Municipal Corporation.

3] In view thereof, both the trial Court and the Appellate Court had rightly held that the Appellant has no case to get the relief of injunction.

4] In this Second Appeal, no substantial question of law is raised. As the findings of the Appellate Court are based on appreciation of evidence and which is found to be proper one, no case is made out for admission of the appeal.

5] Hence, Second Appeal stands dismissed.

6] In view of dismissal of the Second Appeal, the Civil Application does not survive and hence, it stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]