

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3735 OF 2018

Shri Subhash Balkrishna Doshi ... Petitioner

Versus

Mahad Nagar Parishad and Ors. ... Respondents

Adv Prathamesh Bhargude for the petitioner.

Mr. Saurabh Butala for R. No. 1.

Mr. Atul Vanarse, AGP for R. nos. 4 and 5.

CORAM : B.P. DHARMADHIKARI &
SANDEEP KASHINATH SHINDE, JJ.
DATE : AUGUST 19, 2019

P.C.:

Learned counsel for the Municipal Corporation raises preliminary objection. According to him the alternate and effective remedy of filing an appeal under section 169 of the Maharashtra Municipal Councils Nagar Panchayats and Industrial Township Act, 1965 is available.

2. Learned counsel for the petitioner submits that here the petitioners are pointing out basic violations which render the assessment itself illegal and as such the issue cannot be gone into in the said appeal. Our attention has been invited to the Division Bench Judgment of this Court in Municipal Council,

Morshi Vs. Tulsiram Vishwanath Gadbail:1977 Mh.LJ 735 and also to the view taken by the learned Single Judge of this Court in Dagdabai Manakchand Versus Municipal Council, Aurangabad : 1982 Mh.LJ 866. Our attention is also drawn to the case of Hon'ble Apex Court in Bata Shoe Co. Ltd. Vs. Jabalpur Corporation : AIR 1977 SC 955. Learned counsel invites our attention to the discussion in paragraph 20 and 21 onwards to urge that as there remedy of suit is found barred, the observations have been made accordingly.

3. We have perused all the judgments. We find substance in the contention of the Municipal Council that the legality and validity can also be questioned in the appeal under section 169. In fact learned Single Judge has in 1982 Mh.L.J. 866 (supra) held accordingly. Hence, with a liberty to the petitioners to raise the contentions in such appeal and keeping all the contentions of the parties open, we dispose of the writ petition.

(SANDEEP KASHINATH SHINDE, J.)

(B.P. DHARMADHIKARI, J.)