IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 495 OF 2016

Vasantrao Atmaram Javalkar .....Appellant
V/s.
The Chief Officer,
Satara Municipal Council and Ors. ....Respondents

* * * *

Mr. Nandu Pawar, Advocate for the appellant

None for the respondents.

CORAM : SANDEEP K. SHINDE, J.

Tuesday, 5th March, 2019.

P.C. :

1. Heard learned Counsel for the appellant.

2. The defendant-Municipal Council vide notice dated 3rd March, 2010 attached the suit property for recovery of the arrears of taxes and on 5th March, 2010 the employees of the Municipal Council visited the suit property and informed the plaintiff that they would evict him on 9th March, 2010. It is in these circumstances, the

appellant-plaintiff filed a suit for injunction to restrain the Municipal Council from evicting him and attaching the house property bearing City Survey No.131/B1-A/2. The suit was dismissed and Regular Civil Appeal No. 165 of 2011 also met with the same fate. It is against the decree passed in Regular Civil Appeal No. 165 of 2011 passed by the District Judge, Satara, the plaintiff has preferred this Appeal.

3. Admittedly, the house property was originally owned by one, Prabhakar Narhar Kulkarni who sold it to one, Sahadev Mahadev Sakpal. In turn, Sahadev Sakpal, entered into agreement of sell with plaintiff and his wife on 19th February, 2003. It is the plaintiff's case that, he was put in possession of the house property pursuant to the agreement of sell and has also filed a suit for specific performance being Special Civil Suit No. 254 of 2004 against Sahadev Sakpal. On 16th April, 2007, the plaintiff had received a notice from the defendant-Council for recovery of arrears of property taxes payable in respect of the suit property not being paid since the time of the

original owner, Prabhakar Kulkarni. It was followed by the notice of attachment.

4. The provisions of Chapter IX (2) of The Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965 ("the Act" for short) , regulates the assessment and liability to tax on Buildings and Lands. Section 162 of the said Act, provides that, all sums due on account of any tax on lands, or buildings or both shall, subject to the prior payment of land revenue, if any, due to Government thereupon, be a first charge upon the building or land, in respect of which such tax is leviable under Section 161 of the said Act. Section 131 of the said Act provides that, where a person who is primarily liable for the payment of property taxes transfers his title without giving notice of such transfer to the Chief Officer, shall besides being liable on account of such neglect continue to be liable for payment of all property taxes. Sub-section (2) of Section 131 provides that, nothing under sub-section (1) shall be held to diminish the liability of the transferee for the said tax or to affect the prior claim of the Council on the

said building and land conferred by Section 162, for the recovery of the tax on the land or building or both.

5. In the case in hand, the appellant-plaintiff did not challenge the validity of the attachment notice and/or challenged the recovery of arrears of taxes initiated by the by the Municipal Council. Essentially the suit was filed, simplicitor for injunction to restrain the Council from attaching the property without raising any challenge to the notice itself.

6. Both the Courts below, have dismissed the suit and recorded the finding in consistent with the evidence on record and having found the Municipal Council has followed due procedure to recover the arrears of taxes.

7. The Appeal does not give rise to any substantial question of law. The Appeal is therefore dismissed.

(SANDEEP K. SHINDE, J)