

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

CROSS OBJECTION (XOB) NO.27 OF 2008
IN
FIRST APPEAL (FA) NO.160 OF 2007 (D)

(Shivajirao s/o Wamanrao Deshmukh Vs. Municipal Council, Khamgaon & Ors.)

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

Court's or Judge's orders.

None for the appellant.
 Shri A.R.Patil, Advocate for respondent Nos.1 and
 3/Cross-Objectors.

CORAM : PUSHPA V. GANEDIWALA, J.
DECEMBER 04, 2019.

Heard.

In the instant Cross-Objection, the Municipal Council, Khamgaon – the Cross-Objector has assailed adverse findings against it in the judgment and decree in Special Civil Suit No.05/2002 decided on 27/11/2006. Those findings along with issues are reproduced herein below:-

Issue No. as in the impugned judgment	Issues	Findings
7	Do the defendants prove that the order of S.D.O. has been set aside and suit land given in possession of defendants?	In negative.
ii	Is the suit maintainable against the defendant Nos.1 to 3.	In affirmative.

Learned counsel for the Cross-Objectors brought to the notice of this Court Section 304 of the Maharashtra Municipal Councils, Nagar Panchayats

and Industrial Townships Act, 1965 (In short “the said Act”). According to Section 304 of the said Act, a suit against Council, its committees, officers and servants, etc. has to be filed within a period of six months from the date of accrual of the cause of action.

In the instant case, evidently, the cause of action for filing suit arose in the year 1978 and the suit came to be filed in the year 2000 and therefore, the learned Trial Court held that the said suit is barred by limitation. First Appeal No.160/2007 against this judgment came to be dismissed in default vide order dated 21/03/2009 passed by this Court

With regard to issue No.7, perusal of the reasoning recorded by the learned Trial Court below issue No.7 would reveal that the said issue was discussed in favour of the Cross-Objector, though the same was answered in negative.

Given the aforesaid facts and circumstances of the case, this Court is of the view that as the aforesaid findings are in favour of the Cross-Objector, the Cross-Objection is not maintainable.

The Cross-Objection accordingly stands disposed of. No costs.

JUDGE