

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**SECOND APPEAL NO.485 OF 1995 WITH
CIVIL APPLICATION NO.6357 OF 2021**

Nanded Municipal Council, Nanded,
through its Chief Officer

Appellant

Versus

Bhagwan s/o Ganoji More & others

Respondents

Mr.S.V.Kurundkar, advocate for the appellant

Mr.A.S.Radikar, advocate for Respondents No.5, 22, 32, 40 & 44.

CORAM : AVINASH G. GHAROTE, J.

DATE : 15th June, 2021.

PC :

1 The present appeal challenges the decree dated 02.04.1987 passed by the trial Court, which *prima facie*, on a bare reading of the decree, indicates that it is a decree passed merely on the basis of default of the respondents to appear and is devoid of any reasons whatsoever.

2 Basically, on bare reading, the decree cannot be sustained. However, strangely, the appellate Court did not consider this and has dismissed the appeal due to which present appeal is filed.

3 Mr.A.S.Radikar, learned Counsel for Respondents No.5, 22, 32, 40 and 44, submits that even after the decree by the trial Court, these respondents or for that matters, other respondents were never

provided work by the appellants thereby indicating that after passage of 30 years, even if there is any presumption about the legality of the decree, it is merely a paper decree now. Such litigation is, therefore, of no benefit to anyone whatsoever. However, I am unable to dispose of this appeal for the reason that some of the respondents are not served.

3 The appellant has filed Civil Application No.6357 of 2021 seeking permission for substituted service upon Respondents No.4, 15 to 18, 21, 23, 24 & 33.

5 For the reasons stated in the application, Civil Application is allowed. Necessary steps in pursuance thereto be taken forthwith and substituted service be effected within two weeks and thereafter the matter be listed before the Court for final disposal.

(AVINASH G. GHAROTE)
JUDGE

adb