

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

SECOND APPEAL NO. 425 OF 2019

PETITIONER: Akola Municipal Corporation
(Original Through the Commissioner, Akola.
Defendant)

...V E R S U S...

RESPONDENTS :1] Vinodkumar Shrivishnu Toshniwal,
(Original Aged about 60 years,
Plaintiff) Occu: Business, R/o Toshniwal
Bungalow, Murtizapur Road, Akola
Tq. & Dist. Akola.

(Original 2] State of Maharashtra
Defendant) Through – The Collector, Akola.

(Original 3] Sub Divisional Officer,
Defendant) S.D.O. Office, Akola.

Shri Apurv De, counsel for the Appellant.

Dr. Mrs. R.S. Sirpurkar, counsel for the Respondent No.1.

CORAM : ANIL S. KILOR, J.

DATE : 08th DECEMBER, 2021

ORAL JUDGMENT :

1. The present appeal is arising out of the judgment and decree dated 10/07/2018 passed in Regular Civil Appeal No. 39/2016 by the learned Adhoc District Judge-1, Akola, partly allowing the appeal and thereby setting aside the

judgment and decree dated 23/10/2015 passed in Regular Civil Suit No. 121/2010 and thereby declaring that the plaintiff has followed the due procedure of law and legal requirements under the Maharashtra Gunthewari Development (Regularization and Control) Act, 2001 (for short “the Act of 2001”) to convert the suit property for non-agricultural purpose.

2. The brief facts of the present case are as under: (parties are referred as per their status before the trial Court).

3. The plaintiff filed the suit for recovery of Rs. 13,000/- and declaration that the plaintiff has followed the due procedure of law and legal requirements under the Act of 2001 to convert the suit for non-agricultural purpose.

4. The learned Trial Court, after considering the oral as well as documentary evidence placed before it, dismissed the suit vide judgment and decree dated 23/10/2015 which was assailed in Regular Civil Appeal No. 39/2016 and on partly allowing the same vide judgment dated 10/07/2018, feeling aggrieved by it this appeal has been filed.

5. I have heard learned counsel for the respective parties.

6. Shri Apurv De, learned counsel for the appellant submits that the trial Court had dismissed the suit, however, the learned First Appellate Court has decreed the suit in respect of the declaration sought by the plaintiffs and thereby it has been declared that the plaintiff has followed all due procedure of law and legal requirements under the Act of 2001.

7. On a specific question put to the learned counsel for the appellant that, what prejudice has caused to the appellant because of such declaration as given by the learned First Appellate Court. He was not in a position to point out anything as regards the same.

8. Moreover, he also failed to point out any perversity in the said finding of fact recorded by the learned First Appellate Court.

9. In absence of any perversity in the finding of fact recorded by the learned First Appellate Court, which is the last Court of recording of fact, I do not want to interfere with such findings.

10. Thus, on both the above referred counts, I do not find any substantial question of law involved in the present appeal.

11. Accordingly, I pass the following order:-

ORDER

- a] The appeal is dismissed.
- b] Pending application(s), if any, stand(s) disposed of. No order as to costs.

[ANIL S. KILOR, J.]

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