



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1797 OF 2005

The Municipal Corporation of City of Thane ..Appellant

Vs.

M/s. Gala & Associates ..Respondent

WITH

FIRST APPEAL NO.1803 OF 2005

The Municipal Corporation of City of Thane ..Appellant

Vs.

Golden Haven Co-Op Hsg. Soc. ..Respondent

WITH

FIRST APPEAL NO.1799 OF 2005

The Municipal Corporation of City of Thane ..Appellant

Vs.

M/s. Kirti Gaurav Builders And Developers
Pvt. Ltd. ..Respondent

WITH

FIRST APPEAL NO.1798 OF 2005

The Municipal Corporation of City of Thane ..Appellant

Vs.

M/s. Kirti Gaurav Builders And Developers
Pvt. Ltd. ..Respondent

WITH

FIRST APPEAL NO.1802 OF 2005

The Municipal Corporation of City of Thane ..Appellant

Vs.

M/s. Sai Enterprises ..Respondent

WITH

FIRST APPEAL NO.1801 OF 2005

The Municipal Corporation of City of Thane ..Appellant

Vs.

M/s. Kapilavastu Enterprises ..Respondent

Ms. Pooja Malik i/by Mr. N. R. Bubna for the Appellant.
Mr. Niranjana P. Shimpi a/w Ms. Aaliyaa Ahmed for the Respondent.

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 2nd JANUARY 2024.

ORDER:

1. Heard learned counsel for the Appellant and learned counsel for the Respondent.
2. The challenge raised in these Appeals is to the judgment and decree passed by the learned Joint Civil Judge, Senior Division, Thane in Special Civil Suit No.470 of 1995. By the said judgment, the notice issued by the present Appellant–Original Defendant on 24th February 1995 has been held to be illegal. Further directions has been issued to the Appellant-Original Defendant to issue occupancy certificate to the Original Plaintiff.
3. The learned counsel for the Appellant-Original Defendant submits that in First Appeal No.2211 of 2005, similar decree passed by the Trial Court was challenged. By the judgment dated 22nd December 2017, the First Appeal was partly allowed and clause (iv) of the judgment of the Trial Court was set aside. Though, the Appellant-Original Defendant challenged this judgment before the Hon’ble

Supreme Court that challenge has failed.

4. We find on perusal of the impugned judgment dated 10th February 2005 that similar challenge to the same has been considered and decided in First Appeal No.2211 of 2005. We find that the parties would be governed by the decision in the said Appeal. Hence, for reasons recorded in the judgment dated 22nd December 2017 passed in First Appeal No.2211 of 2005, these Appeals can also be disposed of. Accordingly, the following order is passed :

ORDER

- (i) The judgment and decree passed by the learned Joint Civil Judge, Senior Division, Thane in Special Civil Suit No.470 of 1995, except clause (iv) stands confirmed. In case, the Respondent-Original Plaintiff has not submitted an application for obtaining the occupation certificate, it is free to take such steps in accordance with law and as directed in First Appeal No.2211 of 2005.

5. First Appeals are partly allowed in the aforesaid terms. Decree be drawn accordingly. There shall be no order as to costs.

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)