



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.86 OF 2021**

Ramesh Babanrao Patil and Ors. ... Appellants
versus
The Commissioner, Kolhapur Municipal
Corporation and Anr. ... Respondents
WITH
INTERIM APPLICATION NO.183 OF 2020
WITH
INTERIM APPLICATION NO.182 OF 2020

Mr. Sandeep Koregave with Ms. Pallavi A. Karanjkar, for Appellants.
Ms. Chaitrali A. Deshmukh, for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 11 JUNE 2025

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. This Second Appeal is directed against the judgment and order dated 23 September 2019 passed by the learned District Judge, Kolhapur in Regular Civil Appeal No.75 of 2012 whereby the appeal preferred by the Appellants against the judgment and decree dated 24 January 2012 passed by the learned Civil Judge, Jr. Division, Kolhapur in RCS No.977 of 2006 affirming the judgment and decree dismissing the suit instituted by the Appellants – Plaintiffs, came to be dismissed.
3. The Appellants had instituted a suit for declaration and perpetual injunction asserting that the Respondent No.2 was carrying out development

without permission of the Respondent No.1 – Municipal Corporation; construction erected was illegal and in breach of the obligations of the Respondent No.2 in favour of the Appellants and also affected the easementary rights of the Appellants.

4. During the pendency of the suit itself, it was brought on the record of the Court that the Respondent No.2 had obtained permission for the development. The Trial Court and the Appellate Court have recorded categorical findings that the Appellants failed to establish that the construction was unauthorized and illegal.

5. Learned Counsel for the Appellants submitted that the Appellate Court has misread the evidence. Attention of the Court was invited to the evidence of P.W.2 who had visited the suit property and purportedly prepared the panchanama. The appreciation of the evidence by the Trial Court and the Appellate Court was stated to be perverse.

6. I have perused the evidence and the findings of the trial Court as well as the Appellate Court. The foundational premise of the Plaintiff's case was that the Respondent No.2 was carrying out the construction sans permission of the planning authority. This case was shown to be plainly incorrect as the building permission was placed on the record. On the basis of evidence, the Courts have recorded findings that the development was carried out in accordance with the approved plan. These are pure findings of fact. No

question of law, much less, substantial question of law, arises for consideration.

7. The Second Appeal, thus, stands dismissed.
8. Interim Application also stands dismissed.

(N.J.JAMADAR, J.)