

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

**SECOND APPEAL NO.525 OF 2023
WITH
INTERIM APPLICATION NO.19945 OF 2022**

1. Chief Executive Officer
Zilla Parishad, Ratnagiri

2. The Executive Engineer,
Works Department,
Chiplun Division, Zilla Parishad,
Ratnagiri.

...Appellants

Versus

1. K. S. Valsan,
Age :- 50,
Proprietor for M/s. Shanti Construction,
Shanti Bhuvan, Kaviltali,
Chiplun, District Ratnagiri

...Respondent

...

Mr. Shrikrishna Ganbavale, Advocate for Appellants.

Mr. S. C. Mangale i/b. Harshad Sathe, Advocate for Respondent.

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 6th NOVEMBER 2025**

JUDGMENT :-

1. The present second appeal impugns judgment and decree dated 5th March 2020 passed by District Judge-2, Khed, in Regular Civil Appeal No.101 of 2015, thereby upholding judgment and decree dated 30th March 2001 passed by Civil Judge, Senior Division, Ratnagiri, in Special Civil Suit No.197 of 1994.

2. Appellant – Zilla Parishad – was original defendant in Special Civil Suit No.197 of 1994. Respondent/plaintiff instituted suit for recovery of money claiming amount of Rs.3,77,995/-. Plaintiff contended that he is a building contractor and conducts business in the name and style of “M/s. Shanti Construction.” He was awarded a contract to construct building of Primary Health Center at Shirgaon, which he completed as per tender in 1993. Plaintiff informed defendant to take possession of building and settle bills, and accordingly handed over keys to defendant in June 1993.

3. Subsequently, another contractor was appointed for installation of electrical fittings. During execution of said work, windows of building were kept open, resulting in damage to window glasses. However, defendants failed to release bills, compelling plaintiff to file suit.

4. Defendants appeared in suit and contended that, on 20th July 1993, Deputy Engineer observed that construction work was incomplete and identified certain deficiencies. These deficiencies were brought to notice of plaintiff, who was directed to rectify the same. Pertinently, defendants admitted that possession of building had been handed over for purpose of electrical fitting.

5. The Trial Court framed issues, recorded evidence and finally decreed the suit of plaintiff.

6. Aggrieved, defendant filed Regular Civil Appeal No.101 of 2015 before District Judge at Ratnagiri, which was later on transmitted to District Judge at Khed, who concurred with judgment and decree passed by Trial Court and dismissed Appeal

7. Mr. Shrikrishna Ganbavale, learned Advocate for Appellant, would submit that plaintiff failed to execute work within prescribed period and, further, construction was deficient. Therefore, defendants were entitled to deduct appropriate amount from final bill. Plaintiff found entitled to sum of Rs.17,500/- only. However, suit was decreed for excessive and exorbitant amount. He would, therefore, urge that appeal be admitted on substantial question of law as proposed.

8. The learned Advocate for respondent submits that both Courts have concurrently held that plaintiff is entitled to due amount. The findings recorded by Courts are based on appreciation of material on record and does not called for interference in exercise of jurisdiction under Section 100 of the Code of Civil Procedure, 1908. He would, therefore, urge that appeal be dismissed.

9. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that plaintiff was awarded contract for construction of building of health center. He completed work as per tender and handed over possession of building to defendants in month of June 1993. Thereafter, work of electrification was given to a different contractor. Evidence on record shows that before taking possession of constructed building, defendants had inspected the same, prepared final bill, and called upon plaintiff to sign it.

10. Both Courts below have rightly relied upon certificate Exhibit-94 dated 10th August 1994 issued by Executive Engineer, recording that tender work has been completed. DW-2 Basappa Banad, Deputy Engineer, admitted contents of certificate Exhibit-94. It is, therefore, clear that plaintiff had completed construction work.

10. So far as contentions of defendants that construction work was deficient and certain damages were observed, plaintiff has duly explained the same. It is admitted that defendants had taken possession of building for electric work and thereafter certain damages were caused. Admittedly, building in question is put to

desired use. Defendant could not specify so-called deficiencies in building or bring on record valuation of such balance work.

11. In the aforesaid background, both Courts have concurrently recorded a finding that plaintiff is entitled to recover amount of Rs.3,77,995/- towards outstanding bills and accordingly passed a decree for recovery of the said amount from defendants. The concurrent findings recorded by Courts below are based on appreciation of evidence, and no substantial question of law arises for consideration in this Second Appeal.

12. In result, Second Appeal stands dismissed.

13. In view of dismissal of Second Appeal, pending Interim Application also stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE