



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 69 OF 2026

Shankar Chandrayya Kante

...Appellant

Versus

Municipal Corporation of Greater Mumbai

...Respondents

Ms. Shobana Sothe for Appellant.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 27, 2026

P. C. :

1. The First Appeal has been preferred against the order dated 20th September, 2025 passed by the City Civil Court dismissing Suit 2107 of 2023 for want of prosecution.
2. Section 2(2) of Code of Civil Procedure, 1908 defines “decree” to mean formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in the controversy in the suit and may be either preliminary or final, but shall not include an order of dismissal for default and Section 2(9) defines “judgment” to mean the statement given by the Judge on the grounds of decree or order.
3. As the order passed in the present case is an order dismissing the

suit for non-prosecution, the same does not constitute Decree and resultantly, First Appeal could not lie against such order.

4. The First Appeal stands dismissed with liberty to Appellant to adopt appropriate steps for seeking restoration of the suit.

[SHARMILA U. DESHMUKH, J.]