

R.C.S.No.26/2020
(Milind vs. Municipal Council)
Order Below Exh.20
(CNR No. MHRT070006402020)
(Passed On 22/11/2024)

It is an application by defendant for disposing suit as it become infructuous.

Perused the application and say. Heard both Ld. advocate at length. Present suit was filed for the relief of injunction about restraining defendant from demolishing the suit property. As contended by the defendant, said construction was already removed at the time of sewage canal construction. Therefore, defendant sought dismissal of suit at once. The question in hand as to whether the plaintiff has carried out construction over the suit property lawfully or not. Moreover whether defendant could have remove it in the light of existing laws without following due process of law. These questions can be adjudicated during trial. The plaintiff has specifically denied the contentions in the application with the assertions that there is no evidence filed by the defendant about removal of construction for which injunction was sought. In existence of rival contention about existence and non-existence of the suit property, suit can be adjudicated after trial itself. Moreover, there is no evidence at this stage whereby it can be inferred that suit become infructuous. If it will so decide at pre-mature stage, it will be the adjudication of suit itself. Hence, application is devoid of merit at this stage. Accordingly, application is liable to be rejected. Consequently I pass following order.

ORDER

The application stands rejected.

sd/-

Date : 22/11/2024

(Prasanna R. Kulkarni)
Civil Judge Junior Division, Chiplun.