

**IN THE COURT OF THE PRINCIPAL DISTRICT
JUDGE, SATARA, AT SATARA.
(Before Mr.G.D.Tadwalkar)**

REGULAR CIVIL APPEAL NO.318 OF 2005

Exh. _____

1)The Chief Executive Officer,
Zila Parishad, Satara, At Satara.

APPELLANTS
(Ori.defts.1 & 2)

2)The Executive Engineer,
Zila Parishad (North) Satara,
At Satara, Tal.Satara, Dist.Satara.

V/S

M/S Trupti Construction, through
The Contractor Gajanan Kaluram
Chand, Aged 55 years, Occ :
Contractor, R/O 1127, Pune Satara
Road, Lonand, Tal.Khandala, Dist.
Satara.

RESPONDENT
(Ori.plff.)

Claim & V.O.S.M.Rs.1,69,405.64 Ps.

APPEARANCE :Shri D.V.Deshpande, Adv.for appellants.
Shri K.R.Shah & Shri P.V.Pawar, Advocates
for respondents.

ORDER

1) The respondent is the plaintiff, who had raised the suit for setting aside the orders, those were passed by Zila Parishad on 5.2.1993 and 10.3.1993, thereby terminating the contract and or passing incidental orders thereto. The plaintiff has prayed that those orders are null and void and claimed damages of Rs.2,13,055.67 Ps. The suit was valued for jurisdiction and the court fees at Rs.2,13,055.67 Ps. Such a

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suit was decreed partly and as per the decree that was passed on 23rd August, 2005, by CJSD, Satara, Zila Parishad – the present appellant was directed to pay Rs.1,51,202.64 Ps, with interest. Such a decree is assailed by Zila Parishad in this Court. The appeal was presented on 29.11.2005 and the claim was valued for the purpose of jurisdiction and court fees at Rs. 1,69,405.64 Ps. Because of that valuation, the appeal which was presented on 29.11.2005, was entertained and since then, it was pending.

2) Shri D.V.Deshpande, advocate for the appellant has argued the matter at length, but he has not pointed out the valuation on the trial court as well as in the appellate court and the matter was argued on merit. Shri K.R.Shah, advocate for respondent, made submission to the effect that this Court has no jurisdiction to entertain the appeal. For the first time he drew my attention to the valuation of the suit and the decree and the valuation made by the appellant. Those valuation themselves are sufficient to hold that this Court has no jurisdiction to entertain the appeal. When in the suit damages worth more than Rs.2,00,000/- are claimed, then irrespective of the nature of the decree, the valuation for the appeal must be one and the same. District Court won't have jurisdiction to entertain the matters, in which valuation of the subject matter exceeds Rs.2,00,000/-. Section 16 Part 4 of Bombay Civil Courts Act 1869, pertains to jurisdiction of the District Judges and as per that “when the decree or orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court, according to the amount or value of the subject matter does not exceed Rs.2,00,000/-.” District

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Court has jurisdiction to entertain the matters upto Rs. 2,00,000/- and not more than that. Consequently this court has no jurisdiction to entertain the appeal. But it was wrongly entertained and that is because of the wrong valuation given by the appellant. It appears that the decretal amount was considered as valuation for the purpose of appeal, but that is incorrect. The valuation must be as in the suit and when the suit is for recovery of damages for more than Rs.2,00,000/-, then appeal would lie to Hon'ble High Court and not in the District Court. Had Shri Deshpande pointed out that aspect, then the entire exercise would not have been done. But apart from that, when that is brought to my notice, then this Court being incompetent to entertain such appeal, leave aside decision, the appeal has to be returned to the appellant, if the appellant moves in that regard. Otherwise the appeal has to be disposed of for want of jurisdiction. The concern appellant is required to do the needful immediately.

DATE :09.09.2010
SATARA.

(Mr.G.D.Tadwalkar)
PRINCIPAL DISTRICT JUDGE, SATARA.

(Smt.S.A.Bahulekar)
H.G.Stenographer.

1) The appellant after the order has moved an application at exh.21 and admitted therein that the appeal was wrongly filed and requested for return of the appeal. That application is opposed and the respondent has prayed for cost of Rs.6000/-. The application that is moved is in consonance with the order, that was passed, holding that this Court has no jurisdiction to entertain the appeal. The appellant, therefore, has moved the application. Necessarily it is under Order 7 Rule 10 of CPC. The appellant has not moved the specific application under Order 7 Rule 10-A Sub Rule 2 of CPC. Because of that the appeal has to be returned under Order 7 Rule 10 simplicitor. But at the same time, in view of the say, in my opinion, the appellant must be saddled with cost of Rs. 1000/-, which would be just and equitable. Therefore, I proceed to pass the following order.

ORDER

1) The appeal be returned to the appellant for presentation in Hon'ble High Court, under Order 7 Rule 10 of CPC.

2) The appellant shall pay cost of Rs.1000/- to the respondent.

DATE :09.09.2010

SATARA.

(Mr.G.D.Tadwalkar)

PRINCIPAL DISTRICT JUDGE, SATARA.