

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.4063 OF 2014

Babulal Manik Shaikh

.. Petitioner

Versus

Babu Maruti Samudrawane
and ors

.. Respondents

Mr Dhananjay P.Deshpande, Advocate for petitioner
Mr S.Y. Patil, Advocate h/f Mr B.N.Patil, Advocate for respondent no.1
Respondent nos.2 and 3 deleted as per leave granted on 10.10.2014

CORAM : N.W. SAMBRE, J.

DATE : 27th January 2015

PER COURT

1. The petitioner - cross-objector in a first appeal has raised grievance in the present petition that his objection remained to be decided though the appeal in which the objection was filed, was decided on merit.
2. Mr Deshpande learned Counsel for the petitioner submits that there is failure to exercise jurisdiction and as such, this Court can interfere in exercise of powers under Article 227 of the Constitution.
3. The above referred submissions of learned Counsel for the petitioner are objected by learned Counsel for respondent no.1 on the ground that what is contemplated in the present matter is appeal and not writ petition, as according to him, the remedy of appeal is express remedy.
4. In view of above, the learned Counsel for the petitioner makes a motion for withdrawal of the present petition with a liberty to file an appeal.

5. The motion is not objected. Thus, the motion is granted. Writ Petition stands disposed of as withdrawn with liberty, as prayed for.

(N.W. SAMBRE, J.)

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