

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4820 of 2015

Devidas Kashinath Akolkar

...PETITIONER

VERSUS

State of Maharashtra and others

...RESPONDENTS

Mr. Ajit M. Gholap, Advocate for petitioner
Mr. S.K. Tambe, A.G.P. for respondents No. 1 to 3

CORAM : SUNIL P DESHMUKH, J.

DATE : 26th AUGUST, 2015

ORDER :

1. Heard learned counsel for the parties.
2. Perusal of impugned order dated 17-03-2015 passed by District Judge-1, Ahmednagar in miscellaneous civil appeal. 42 of 2015, shows that there is no independent application of mind to the facts and contentions advanced by either side, the appellate court appears to have observed by simply referring to that trial court considered the *prima facie* case and documents on record in detail and has passed proper orders. The appellate court does not appears to have even considered the dates and no chronological events as may be relevant in the matter, upto letter had been issued stalling the business of the petitioner. As such, it may be necessary that the appellate court shall apply independent mind as

appellate court to the facts and contentions and to take comprehensive view of the matter and pass appropriate order.

3. In view of aforesaid, impugned order dated 17-03-2015 passed by District Judge-1, Ahmednagar in miscellaneous civil appeal. 42 of 2015 stands set aside. miscellaneous civil appeal stands restored to its position as was subsisting before passing of impugned order. Parties to address miscellaneous civil appeal afresh. The District Judge-1, Ahmednagar shall decide miscellaneous civil appeal on its own merits without getting influenced by his earlier order.

4. Learned counsel for petitioner requests to direct the appellate court to decide miscellaneous civil appeal at an early date within stipulated period. Having regard to that, the appellate court shall decide miscellaneous civil appeal as early as possible, preferably within a period of six weeks from the date of writ of this order.

5. With aforesaid directions, writ petition stands disposed of.

Sd/-

(SUNIL P DESHMUKH, J.)

MTK.