

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

914 WRIT PETITION NO. 1616 OF 2015

AMOL VISHWANATH ANKUTE
VERSUS
ANANDABAI CHAINSUKHLAL NAHAR AND ANOTHER

Shri. H.V. Tungar, Advocate, for petitioner.

Shri. Mandar Deshmukh, Advocate, holding for Shri. S.G.
Chapalgaonkar, Advocate, for respondent No.1.

CORAM: T.V. NALAWADE, J.

DATE : 15 SEPTEMBER 2016

ORDER:

1) The petition is filed to challenge the order made on Exhibit 29 in Regular Darkhast No.213/2013 presently pending in the Court of the Civil Judge, Junior Division, Beed. Heard both the sides.

2) The proceeding is filed against the present petitioner for taking action against him for breach of injunction decree. It appears that the petitioner's counsel did not remain present to cross examine the applicant and ultimately "No Cross" order came to be made. It can be said that the decree holder wants to take action like

sending the present petitioner to civil prison. Only due to this circumstance this Court holds that opportunity needs to be given to the petitioner to have decision on merit and to take cross examination of the applicant and his witnesses. However, the decree holder submits that in the present proceeding this Court by order dated 24-2-2015 had directed the present petitioner to deposit Rs.10,000/- in the executing Court. It appears that the said amount is deposited in the executing Court. There will be liberty to the decree holder to withdraw that amount. That amount is to be treated as cost of the proceeding. So the petition is allowed in those terms. The order made by the Judge of the executing Court on application Exhibit 29 is hereby set aside. The matter is to be disposed of within 45 days from the date of receipt of this order.

Sd/-
(T.V. NALAWADE, J.)

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