

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

41 WRIT PETITION NO. 2114 OF 2016

GANPAT DEOBA SHRIMANGLE
VERSUS
RAMCHANDRA GANPATI CHEBLE AND OTHERS

...
Advocate for Petitioner : Mr. V.G.Sakolkar

...
CORAM : R. M. BORDE, J.
Date: March 28, 2016

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PER COURT :-

1 The Suit presented by the plaintiff came to be dismissed by the Trial Judge, on account of failure of the plaintiff to appear in the matter, as well as failure to comply with the order dated 26.8.2011. The Suit appears to have been dismissed by taking recourse to Rules 2 and 3 of Order 9 of the Civil Procedure Code. An application tendered by the plaintiff for recalling of the order under rule 4 of Order 9 has been turned down by the Trial Court. The Suit was filed in the year 1995 and the plaintiff has not prosecuted the Suit diligently.

2 I do not find any error or infirmity in the order passed by the Trial Court, refusing to allow the application, presented by the plaintiff under Rule 4, Order 9 of Civil Procedure Code. However, the law prescribes remedy of presentation of a fresh Suit, subject to law of limitation in such contingency.

3 Keeping option of the petitioner to avail of remedy available in law, open, writ petition stands rejected.

(R. M. BORDE, J.)