

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 12208 OF 2015

Kishor s/o Shivajirao Jawalkar

... **PETITIONER**

VERSUS

The State of Maharashtra and others

... **RESPONDENTS**

...

Mr. J. M. Murkute, Advocate for Petitioner.

Mr. U. H. Bhogale, AGP for Respondent / State.

Mr. P. V. Mandlik, Senior Counsel, h/for Mr. P. P. Mandlik, Advocate for Respondent No.3 to 5.

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CORAM : P. R. BORA, J.

Reserved on : 20th June, 2016.

Pronounced on : **28th June, 2016.**

ORDER:

. The learned counsel appearing for Respondent Nos.3 to 5 has submitted an affidavit in reply across the bar. The same is taken on record.

2 The petition is heard finally with the consent of the learned counsel appearing for the parties.

3 In the present petition, the Petitioner has challenged the order dated 2nd May, 2003 passed by Respondent No.4 and has sought quashment of the said order. The Petitioner has also prayed for setting aside the judgment and order passed by 3rd Joint Civil Judge Senior Division, Nanded on 12th September, 2015 in Regular Civil Suit No.404 of 2004.

4 In so far as the challenge to the order of suspension dated 2nd May, 2003 is concerned, since the said order is an administrative order passed by Respondent No.4, challenge to the said order cannot be entertained by the Single Judge.

5 As mentioned hereinabove, the Petitioner has also challenged the order passed by 3rd Joint Civil Judge Senior Division, Nanded on 12th September, 2015 in Regular Civil Suit No.404 of 2004. On perusal of the impugned judgment, it is revealed that vide aforesaid judgment, the learned Civil Judge has dismissed the suit filed by the present Petitioner for want of jurisdiction. Dismissal of the suit by the Civil Court on the ground of lack of jurisdiction is actually a final adjudication of the rights of the parties and would, therefore, amount to a decree as defined under Section 2(2) of the Code of Civil

Procedure (hereinafter referred to as “the Code”). If the Petitioner is aggrieved by the decree so passed, the remedy available for him was to file an appeal to the District Court under Section 96 of the Code. When the alternative efficacious remedy is available, the writ petition cannot be entertained.

6 For the aforesaid reasons, the writ petition deserves to be dismissed. It is accordingly dismissed. However, no order as to costs.

[P. R. BORA, J.]

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