

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

WRIT PETITION NO. 4683 OF 2016

Devidas s/o. Shamrao Pawar .. Petitioner
Age. 40 years, Occ. Pensioner,
Residing at Plot No.38, Mayur Park,
Kartik Nagar, Near Maher Hospital,
Harsul Area, Aurangabad.

Versus

1. Mrs. Nanda w/o. Devidas Pawar .. Respondents
Age. 33 years, Occ. Well to do,
Residing at C/o. Mr. Haridas
Vishwanath Tondle, At and Post
Ganori, Taluka Phulambri,
Dist. Aurangabad.
And also at
Mrs. Nanda w/o. Raj madan Kale,
C/o. Madan Mhadu Kale,
Age. 33 years, Occ. Service,
Residing at Rajput House, Plot No.6,
Aditya Nagar, Near Dadoji Konddeo School,
Mayur Park, Harsul Area, Aurangabad.

Mr. Hemant Surve, Advocate for the petitioner.
Mr. M. K. Deshpande, Advocate for sole respondent.

CORAM : S.B. SHUKRE, J.

DATED : 13.02.2017

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally by consent.

2. The issue as to whether the paper book to facilitate hearing of P.W.D.V.A. Appeal Nos.13 and 16 of 2014 should have been prepared as required by paragraph 359 of the Civil Manual. If the parties do not find it inconvenient to rely upon the original record of the Court and accordingly they give consent for dispensing with the requirement of the paper book, the First Appellate Court can proceed to hear the appeals by passing order of dispensing with the paper book and considering the original record and proceedings. However, in the instant case, the petitioner is finding it inconvenient to refer to the original record as it would always be under the control of the Presiding Officer and every now and then the petitioner would be required to obtain consent of the Presiding Officer to pass on to him the record and proceedings and in this way inconvenience would be caused not only to the petitioner but also to the Court.

3. Such being the scenario, I am of the view that the impugned order dated 30.03.2016 has resulted in miscarriage of justice and therefore same is required to be quashed and set aside.

4. The impugned order is quashed and set aside. By allowing the writ petition, it is directed that the paper

book shall be prepared as expeditiously as possible and learned District Judge can pass necessary orders for expeditious preparation of the paper book. Considering the issue involved in this matter, it is also directed that the appeals shall be disposed of within three months from the date of submission of the paper book.

5. The writ petition is allowed in above terms. Rule made absolute accordingly. No costs.

6. Authenticated copy of this judgment be provided to both sides.

[S.B. SHUKRE,J.]