

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

BENCH AT AURANGABAD.

WRIT PETITION NO.836 OF 2015

Syed Amiruddin S/o
Syed Tamizuddin ...Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.N.R.Dayama, advocate holding for
Mr.R.S.Deshmukh, advocate for the petitioner.
Ms.R.P.Gour, A.G.P. for the State.
Mr.Shaikh Mujtaba Gulam Mustafa, advocate for
Respondent Nos.4 and 7.

...

CORAM : S.V.GANGAPURWALA, J.

Date : 15.12.2017.

PER COURT :

1. Mr.Mujtaba, learned counsel for Respondents submits that the present Respondents had moved the authority for the right of way U/s 143 of the Maharashtra Land Revenue Code.

2. Against the order passed under the said provision, the petitioner had filed an appeal

before the Additional Collector. The appeal is disposed of without deciding it on merits on the ground that the matter is before the Civil Court.

3. The petitioner had filed a suit before the Civil Court for simpliciter injunction in the year 2011. No relief of declaration is sought in the said suit.

4. The appellate authority before whom the appeal was filed by the petitioner ought to have decided the appeal on merits.

5. In the result, the impugned order is quashed and set aside. The appellate authority shall decide the appeal filed by the petitioner on its own merits in accordance with law. The parties shall appear before the appellate authority i.e. Additional Collector, Aurangabad on 4.1.2018. The appellate authority shall endeavour to decide the appeal expeditiously.

6. The Writ Petition is disposed of. No costs.

(S.V.GANGAPURWALA, J.)

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