

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 8457/2018.

Pralhad Kisan Bondre

-VERSUS-

Ramkrishna Shikshan Prasarak Mandal and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri P.S. Patil, Advocate for the Petitioner.

CORAM : R.K. DESHPANDE &
VINAY JOSHI, JJ.

DATE : DECEMBER 14, 2018.

Heard.

2. The complaint in this petition is that in Regular Civil Suit No. 4/2015, applications filed under Order VII Rule 11 of Civil Procedure Code, marked as Exh.17, and under Section 9A, at Exh.34, are pending since 2015 and 2016 for decision.

3. In Writ Petition No. 5384/2001 decided on 23.06.2014, this Court after hearing all the parties, has recorded the following observations :

“ On hearing the learned

2

counsel for the parties, it appears that the prayer made by the petitioner in the instant petition cannot be granted. Though the Management was directed by this Court to reinstate the petitioner and it is the case of the petitioner that the petitioner immediately approached the Management for joining the duties, this fact is disputed by the Management. Admittedly, the petitioner had not worked during the period for which the petitioner is claiming the arrears of salary. The question of payment of salary for the period during which the Management allegedly did not permit the petitioner to join the duties, cannot be decided in exercise of the writ jurisdiction and it would be proper on the part of the petitioner to ventilate his grievance before a Civil Court.”

4. The question raised before the Civil Court in Regular Civil Suit No.4/2015, in the application under Order VII Rule 11, is that the Civil Court had no jurisdiction to entertain the suit and decide the claim.

5. In view of the aforesaid decision of this Court, there is no scope for the Civil Court to hold that

3

it has no jurisdiction. The claim has to be decided on merits. This is a result of incompetency shown by the learned Judge of the Civil Court dealing with the matter. We therefore, direct the Civil Court to decide the matter on its own merit, within a period of 6 months from the date of appearance of the parties. Writ Petition stands disposed of accordingly. No costs.

JUDGE**JUDGE**

Rgd.