

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

WRIT PETITION NO. 5753 OF 2018

Shrikant S/o. Sharad Salve

... Petitioner

Versus

The State of Maharashtra & Ors.

.... Respondents

.....

Mr C. K. Shinde, Advocate for the petitioner
Mr S. K. Tambe, AGP for respondent/State
Mr V. S. Bedre, Advocate for respondent No. 5

.....

AND

CIVIL APPLICATION NO. 12077 OF 2018

IN

WRIT PETITION NO. 5753 OF 2018

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 21ST JANUARY, 2019

ORAL ORDER:

. We have heard Mr C. K. Shinde, learned counsel for the petitioner and Mr V. S. Bedre, learned counsel for respondent No. 5.

2. One of the reliefs claimed by the petitioner is regarding the decree of the Civil Court passed in favour of present respondent No. 5.
5. The other reliefs are dependent upon the decree of the Civil Court.

3. It is the contention of the petitioner that, the decree has been obtained by respondent No. 5 by playing fraud. The petitioner has already filed an objection under Order 21 Rule 97 of CPC. The same appears to have been decided. The said objection has to be decided as a suit and the judgment and order passed amounts to a decree.

4. The petitioner also has a right to challenge the said decree by filing suit on the ground of fraud.

5. Keeping all these avenues open to the petitioner, the writ petition stands disposed of. No costs. The contentions of the parties are kept open.

6. In view of disposal of writ petition, pending civil application, if any, stands disposed of.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE