

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2276 OF 2003

Ravindra Vasantrya Deshpande

...Petitioner

vs.

Kolhapur District Chemists Association
and Another

...Respondents

None for the Petitioner

None for the Respondents

CORAM : M. S. SONAK, J.

DATE : MARCH 28, 2019

P.C.:

. On 21st May, 2018 this Court made the following order.

“1 Called out for final hearing before a Special Bench constituted to hear old writ petitions in Vacation.

2 By the impugned Judgment and Order, the learned Joint Civil Judge, Junior Division, Kolhapur has rejected the plaint filed in the suit filed by the petitioner in exercise of power under Rule 11 of the Order VII of the Code of Civil Procedure, 1908.

3 As per the definition of decree under SubSection (2) of Section 2 of the Code of Civil Procedure, 1908 rejection of plaint amounts to a decree. Hence, an Appeal is maintainable under Section 96 of the Code of Civil Procedure, 1908 for challenging the impugned Judgment and Order.

4 As none appears for the parties, place the petition before the regular Court on daily board of 18th June 2018 under the caption of “Directions”.

2. Today when this Petition is called out, again neither the Petitioner nor his advocate appeared. Besides, as was observed in the aforesaid order dated 21st May, 2018, the rejection of the Plaint by the impugned order amount to a decree in terms of sub-section (2) of Section 2 of Code of Civil Procedure. Hence, the Petitioner ought to have file an Appeal and not the present Petition.

3. For all the aforesaid reasons, this Petition is dismissed with liberty to the Petitioner to file an Appeal, if so advised.

(M. S. SONAK, J.)