

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4475/2017

Smt. Suman Wd/o Fattu Dhenge and another

..Vs..

The Collector, Buldhana and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.D. Muley, Advocate for the petitioners.
Ms. Kalyani Deshpande, A.G.P. for respondent Nos.1 to 3.
Shri V.G. Palshikar, Advocate for respondent No.4.
Shri A.K. Bangadkar, Advocate for respondent No.5.

CORAM : Z.A. HAQ, J.

DATED : 16.7.2019.

Learned Advocates for respondent Nos.4 and 5 submit that the impugned order rejecting the plaint under Order 7 Rule 11 of the Code of Civil Procedure amounts to decree as defined under Section 2(2) of the Code of Civil Procedure and therefore, appeal under Section 96 of the Code of Civil Procedure would lie against it. Reliance is placed on the judgment given by Hon'ble Supreme Court in the case of *Shamsher Singh V/s. Rajinder Prashad and others* reported in **AIR 1973 SC 2384** and the judgment given by the Punjab and Haryana High Court in the case of *Gurdeep Singh and Ors. V/s. Joginder Pal Jhanjhi and Ors.* reported in **AIR 2018 Punjab and Haryana 175**.

Acceding to the objection raised on behalf of the respondent Nos.4 and 5, learned Advocate for the petitioner seeks permission to withdraw the writ petition with liberty to file appeal before the District Court.

Writ petition is **disposed** as withdrawn with liberty as prayed for. No costs.

JUDGE

Tambaskar.