

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5918 OF 2021

Samit Abhaykumar Mutha

Petitioner

Versus

The Ahmednagar District Central
Co-Operative Bank Ltd. And Others

Respondents

Mr. V.S. Bedre, Advocate for the petitioner.

Mr. T.M. Shaikh h/f. Mr. V.R. Dhorde, Advocate for respondent
No. 1.

Mr. A.C. Darandale, Advocate for respondent No. 3.

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th AUGUST, 2023

ORDER :

1. A preliminary objection is raised by learned advocate for respondent No. 3 as to the maintainability of the present writ petition, by relying on a decision of this Court in **Shri Pradeep Ramgopal Gupta Vs. Smt. Rukminibai Rammanohar Shahu & Ors.**, 2020(2) ALL MR 368, wherein it is held that, "*order passed by the Executing Court on application filed under section 47, Order 21 Rule 97 and 103 of CPC, has the same force as of decree and the said order has to be challenged by way of filing appeal and writ petition against the said order is not maintainable.*"

2. Faced with this situation, learned advocate for the petitioner on instructions seeks permission to withdraw the writ petition with liberty to file appeal challenging the orders impugned in the present petition.

3. Writ petition is disposed of as withdrawn with liberty as prayed for.

4. Needless to mention that the time spent by the petitioner in prosecuting the present petition shall be considered by the Appellate Court while considering the delay condonation application.

[NITIN B. SURYAWANSHI, J.]