



ons have been carried out in view of speaking to the minutes order dated 17.12.2025)

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

989 WRIT PETITION NO. 3898 OF 2022

NANDKISHOR BALKISHAN BALDAWA AND ANOTHER

VERSUS

SIDHESHWAR BHAGWATRAO MALWADE AND OTHERS

...

Advocate for the Petitioner : Mr. Bora Satyajit S.

Advocate for Respondent No.1 to 4 : Mr. Munde Dhanraj P

...

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 10.12.2025

PER COURT :

1. Heard learned counsel for respective sides.

2. By the present petition, the petitioners are challenging the order dated 04.01.2022 passed below Exh.50 by learned Civil Judge Senior Division, Latur in **R.C.S.No.52 of 2014** whereby the application filed by petitioners under Order 23 Rule 3A and Order 7 Rule 11(d) of C.P.C. came to be rejected.

3. The learned counsel for the petitioners submits that the **respondents** herein challenged the compromise decree in R.C.S No. 127 of 2012 by filing a separate suit **R.C.S. No.52 of 2014**. In **R.C.S. No.52 of 2014** the petitioners filed an application pointing out that the suit was not maintainable but the learned trial court rejected the same wrongly.

4. Learned counsel Mr. Bora relied upon the law laid down by

Hon'ble Apex Court in the matter of **R. Ranjanna vs. S.R. Venkataswamy** reported in **AIR 2015 SC 706**. The paragraph No.10 which reads thus :

“10. It is manifest from a plain reading of the above that in terms of the proviso to Order XXIII Rule 3 where one party alleges and the other denies adjustment or satisfaction of any suit by a lawful agreement or compromise in writing and signed by the parties, the Court before whom such question is raised, shall decide the same. What is important is that in terms of Explanation to Order XXIII Rule 3, the agreement or compromise shall not be deemed to be lawful within meaning of the said rule if the same is void or voidable under Indian Contract Act, 1872. It follows that in every case where the question arises whether or not there has been a lawful agreement or compromise in writing and signed by the parties, the question whether the agreement or compromise is lawful has to be determined by the Court concerned. What is lawful will in turn depend upon whether the allegations suggest any infirmity in the compromise and the decree that would make the same void or voidable under the Contract Act. More importantly, Order XXIII Rule 3A clearly bars a suit to set aside a decree on the ground that the compromise on which the decree is based was not lawful. This implies that no sooner a question relating to lawfulness of the agreement or compromise is raised before the Court that passed the decree on the basis of any such agreement or compromise, it is that Court and that Court alone who can examine and determine that question. The Court cannot direct the parties to file a separate suit on the subject for no such suit will lie in view of the provisions of Order XXIII Rule 3A of Code of Civil Procedure. That is precisely what has happened in the case at hand. When the Appellant filed OS No. 5326 of 2005 to challenge validity of the compromise decree, the Court before whom the suit came up rejected the plaint under Order VII Rule 11 Code of Civil Procedure on the application made by the Respondents holding that such a suit was barred by the provisions of Order XXIII Rule 3A of the Code of Civil Procedure. Having thus got the plaint rejected, the Defendants (Respondents herein) could hardly be heard to argue that the Plaintiff (Appellant herein) ought to pursue his remedy against the compromise decree in pursuance of OS No. 5326 of 2005 and if the plaint in the suit has been rejected to pursue his remedy against such rejection before a higher Court.”

The Hon'ble Apex Court has considered the issue and held that suit was not maintainable.

5. I have gone through the order passed by learned trial court. Considering the law laid down by the Hon'ble Apex Court in the case of

R. Ranjanna (supra), I am of the opinion that **the learned trial court has committed error in rejecting application below Exh.50.**

6. Therefore, I am inclined to allow the Writ petition by setting aside the order dated 04.01.2022 passed below Exh.50 by learned Civil Judge Senior Division, Latur in **R.C.S.No.52 of 2014** under Article 227 of the Constitution of India.

7. In view thereof, the Writ Petition is allowed. The order dated 04.01.2022 passed below Exh.50 by learned Civil Judge Senior Division, Latur in **R.C.S.No.52 of 2014** is quashed and set-aside. The Application below Exh.50 is allowed and **R.C.S.No.52 of 2014** is hereby dismissed.

8. However, it is made clear that the respondents are at liberty to file an application challenging the compromise decree before the court passing the said compromise decree in accordance with law.

9. The delay caused in prosecuting the suit and the present petition shall be taken into consideration by the concerned court if the respondents file an application challenging the compromise decree.

10. All issues kept open.

(SIDDHESHWAR S. THOMBRE, J.)

vsj..