



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

967 APEAL FROM ORDER NO. 30 OF 2025

HABIB KHAN S/O JABBAR KHAN PATHAN
VERSUS
STATE OF MAHARASHTRA THROUGH COLLECTOR HINGOLI
AND OTHERS

...
Advocate for Appellant : Mr. Shaikh Nasimoddin Rafiyoddin.
AGP for Respondent/s-State : Mr. N. D. Raje.
Advocate for Respondent No.3 : Mr. Pathan Hamzakhan I.
...

CORAM : SHAILESH P. BRAHME, J.
DATE : 07.01.2026

PER COURT :-

1. A preliminary objection has been taken by the respondent pointing out order dated 09.10.2024 passed in Appeal from Order Stamp No.16898 of 2024, regarding maintainability of the present appeal.
2. The impugned order was passed under Order 41 Rule 17 of the CPC and against that remedy was to prefer application under Order 41 Rule 19 before self-same Appellate Court. The remedy of appeal from order directly in High Court was not available. Therefore, filing of the appeal and passing of the orders previously by High Court are in-consequential. The preliminary objection is overruled.

3. Appeal shall be decided finally by consent of the parties
on 28.01.2026.

(SHAILESH P. BRAHME, J.)

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vmk/-