

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP)NO.6676 OF 2015

Shri Shankar Baban Lokhande.] .. Petitioner

Versus

Shri Tanaji Dattu Lokhande and Ors.] ... Respondents

Mr. Ajay A. Joshi for Petitioner.

Mrs. Vaishali Nimbalkar, A.G.P., for Respondent No.7.

CORAM :- M. S. SONAK, J.

DATE :- DECEMBER 16, 2015

P. C. :-

1. The challenge in this petition is to the order dated 29/12/2014 by which the respondent no.7 has dismissed the petitioner's Appeal No.2179 of 2012, but granted the petitioner liberty to institute a fresh appeal in his own name.

2. In the facts and circumstances of the present case, the view taken by the respondent no.7 does not appear to be appropriate. The appeal had been instituted by the petitioner in his capacity as Power of Attorney holder of his father. Upon demise of the father, the petitioner applied for continuation of the appeal as legal representative of his father. His application has been dismissed by

observing that the Power of Attorney comes to an end upon the demise of the father and in any case, there are other legal representatives of the late father.

3. At this stage, however, considering the liberty granted to the petitioner, it is not necessary to interfere with the impugned order. Notice for final hearing had been given in this matter and even interim relief was granted. All this was on the basis that the petitioner would take emergent steps to effect service. However, the petitioner has failed to serve the respondents despite opportunities.

4. Accordingly, the impugned order is not interfered with. The impugned order has itself granted liberty to the petitioner to institute the appeal in his own name. The petitioner is, however, directed to implead the other legal representatives as respondents to such appeal. Such appeal, if instituted by the petitioner within a period of four weeks from today, may be considered by the respondent no.7 on its own merits and in accordance with law without adverting to the issue of limitation.

5. With the aforesaid observation, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)