

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.20 OF 2011**

Laxmikant Ganpatrao Sankpal

..Petitioner

Vs.

**Anandrao Rajaram Sakpal (deceased)
through LRs & Ors.**

..Respondents

**Mr. Sandeep Bane for the Petitioner
Mr. S. S. Tambekar for the Respondents**

**CORAM : R. M. SAVANT, J.
DATE : 14th SEPTEMBER, 2015**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 20-11-2010 passed by the Learned Civil Judge Junior Division, Kankavali, by which order, the application Exhibit 174 filed by the Defendants i.e. the Respondents herein to lead secondary evidence in respect of the document dated 23-10-1924 came to be allowed. The order discloses that the said application was allowed in the absence of the Advocate for the parties who were both not present on the said day i.e. 20-11-2010.

2 The Learned Counsel appearing for the Petitioner seeks to raise various contentions as regards why the permission to lead secondary evidence should not have been granted by the Trial Court. Whereas the Learned Counsel appearing for the Respondents seeks to justify the order in so far as the grant

of permission to lead secondary evidence is concerned.

3 In my view, it is not necessary to go into the said aspects as
admittedly the said order has been passed without hearing the Learned
Counsel for the parties. The impugned order dated 20-11-2010 is required to
be quashed and set aside and is accordingly quashed and set aside, and the
application Exhibit 174 is relegated back to the Trial Court for a denovo
consideration of the same. On remand the application Exhibit 174 to be
decided latest by 30-11-2015.

4 Needless to state that the Trial Court would consider the same on
its own merits and in accordance with law uninfluenced by the earlier order or
the instant order.

5 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed order