

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3054 OF 2014

Suresh s/o Daulatrao Wirulkar

-vs-

Ganesh s/o Rajaram Bodkhe

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. Sitani, Advocate for petitioner.

Shri U. A. Gosavi, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : JULY 07, 2015

Rule.

Heard finally with consent of learned counsel for the parties.

The challenge in the present Writ Petition is to the order dated 31/08/2013 passed below Exhibit-13 by the Executing Court modifying its earlier order dated 14/09/2012.

It is not necessary to go into minute details as undisputedly before order dated 14/09/2012 came to be modified by the impugned order, the present petitioner-judgment debtor had not been heard. According to the learned counsel for the respondent though the present petitioner was duly served in the proceedings, he remained absent thereafter.

Considering the fact that when the order dated 04/07/2013 in Writ Petition No.5326 of 2012 was passed before the present petitioner could be duly served coupled with the fact that order below Exhibit-13 came

to be passed on the same day on which the application was moved, interests of justice would be served if said application is duly considered and decided after hearing the present petitioner.

Hence to grant one opportunity of hearing to the present petitioner, the order dated 31/08/2013 passed below Exhibit-13 is set aside. The Executing Court is directed to consider said application afresh by granting an opportunity to the present petitioner. However, if the petitioner does not avail said opportunity, the Court may thereafter proceed with the matter on merits.

The Executing Court shall consider Exhibit-13 on the next date which is fixed in the proceedings. Said application shall be decided within period of six weeks from the first date of hearing. Similarly the execution proceedings filed by the respondent are expedited.

Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE