

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

WRIT PETITION NO. 4712 OF 2014

Gendmal Bhikulal Batiya (Bhantiya)

..PETITIONER

VERSUS

Prakash Shekuji Patil and Others

..RESPONDENTS

....

Mr. A.S. Deshmukh, Advocate for petitioner.

Mr. S.K. Chavan, Advocate for Respondent No.1.

Mr. S.V. Chandole, Advocate for Respondent Nos.1 to 4.

....

CORAM : T.V. NALAWADE, J.

DATED : 21st OCTOBER, 2016

ORDER :

1. The petition is filed to challenge the order made on Exhibit 102 in Special Civil Suit No. 21 of 2009 presently pending in the Court of Civil Judge, Senior Division, Parbhani and the application was filed by the present petitioner for setting aside ex-party order made against him by the Court. The Court has rejected the application. Heard both sides.

2. It appears that the present petitioner was added subsequently in the suit on the basis of the application made by original defendants – sons of present petitioner. The order of addition of petitioner was

challenged by present petitioner by filing the proceeding, but he could not succeed in that proceeding. Due to the circumstances he wants now to contest the matter by filing written submissions and by giving evidence. As he is made party and there are aforesaid circumstances, this Court holds that the ex-party order needs to be set aside to give opportunity to the present petitioner to contest the suit.

3. So, petition is allowed. Order made on Exhibit 102 by the Trial Court is hereby set aside and application at Exhibit 102 is allowed. Petitioner is allowed to file written statement. It was submitted that written statement was already filed alongwith Exhibit 102 and it is to be read and recorded. Opportunity is to be given to the petitioner to contest the matter. Trial Court is expected to expedite the suit within six months from today.

(T.V. NALAWADE, J.)

SSD