

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

909 CRIMINAL APPLICATION NO. 2486 OF 2016
IN CRIMINAL APPEAL NO.755/2003

Shivaji Kashinath Babhale	...	Applicant
Age 53 years, Occu: Retired		(Orig.
R/o Mohagaon (K), Post. Lohara		respondent No.4)
Taluka Omerga, Dist. Osmanabad		

VERSUS

1. Fatimabee w/o Mohamadhusain Shaikh	...	Respondent
Age 58 years, Occu: Household,		(Orig.
R/o Lohara (K), Tq. Omerga,		complainant)
District Osmanabad		

2. The State of Maharashtra

3. Sikandar Jainoddin Shaikh,
R/o Village Lohara (Bk)
Tq. Omerga, Dist. Osmanabad.

4. Mainoddin Sikander Shaikh,	...	Non applicants.
Age 37 years, Occu: Agri.		
R/o Village Lohara (Bk)		
Tq. Omerga, Dist. Osmanabad.		

Advocate for Applicant : Mr. Bayas Anandsingh
A.P.P. For respondent No.2 State: Mr. P. N. Kutti
Advocate for Respondent No.1: Mrs. A. N. Ansari
Advocate for Respondent No.3 :Mr. E. S. Murge,

CORAM : A.I.S. CHEEMA, J.

DATE : 04th May, 2016

ORDER:

1. Counsel for the applicant who is original

respondent No.4-accused in Criminal appeal No.755/2003, states that the applicant is present in court. According to the counsel, address of this respondent has changed and he did not receive the earlier communication. However, the record of Criminal Appeal No. 755/2003 shows that this respondent had earlier appeared in the appeal when it was at the stage of grant of leave to appeal and if his address was changed, he should have informed the counsel. The counsel reported to the court that he had sent notice to respondent No.4 but it could not be served. The counsel recuse himself. Now, on the non bailable warrant having issued, the applicant has taken plea that address was changed.

2. Looking to the fact that it was for the applicant to keep his counsel informed and because of the act of the applicant as the State machinery was required to be activated, the application is allowed subject to costs of Rs.3000/- (Rupees three thousand) to be paid to the State. If the costs are deposited by 10.05.2016 in this Court, the non bailable warrant may be recalled un-executed. Till 10.05.2016, execution of the non-bailable warrant is stayed.

3. If the costs are not deposited, the non bailable warrant shall be executed.

4. The application is disposed of.

5. Authenticated copy be given to respondent No.4.

(A.I.S. CHEEMA, J.)

JPC