

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

**CIVIL APPLICATION NO.12096 OF 2015
IN
SECOND APPEAL NO.375 OF 2015**

Surendra Brijmohan Agrawal

.. **Applicant**

Versus

Laxman Baburao Avhale and others

.. **Respondents**

Mr. Anjali Dube (Bajpai), Advocate for the applicant
Mr.G.L.Awale, Advocate for the respondent Nos.1 to 5

**CORAM : A.V.NIRGUDE, J
DATED : 23.02.2016**

P.C. :-

1. Heard.

2. Mr.Patil N.P.Jamalpurkar filed Appeal on behalf of five appellants. In the Appeal Memo, one Surendra Agrawal was Respondent No.1, Vyankatesh Education Society was respondent No.2 and the Joint Charity Commissioner, Latur was respondent No.3. When the Appeal was heard on 17.08.2015, I did not notice that the learned Advocate appearing for Respondent No.1 was not present before me. Instead Shri S.S.Thombre, learned Advocate remained present before me.

3. On perusal of the record, it is found that Shri.

S.S.Thombre, Advocate appeared for one Mr.Patne who was not party to the appeal. Mr. Thombre's client had filed a Caveat. Despite this, I proceeded to hear the Appeal and delivered the judgment. This judgment is Ex-party at least against Respondent Nos.1 and 2 of the Appeal.

4. Hence this application deserves to be allowed. I set aside the judgment and fix the Appeal for hearing. The Appeal shall be listed for hearing before regular Bench showing the name of appellant's Advocate, names of Advocates for respondent Nos. 1 and 2 and also Advocate Shri S.S.Thombre, who throughout appeared in this appeal though his client was not party. The Civil Application stands allowed and disposed of accordingly.

[A.V.NIRGUDE, J.]