

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

CRIMINAL APPLICATION NO. 5094 OF 2016
IN
CRIMINAL WRIT PETITION NO. 1072 OF 2016

Omprakash Dadappa Koyate
and others

...Applicants

VERSUS

The State of Maharashtra
and others

...Respondents

.....

Shri R.N.Dhorde, Senior Advocate i/b
Shri V.R.Dhorde, advocate for the applicants
Shri S.W.Mundhe, A.P.P. for respondent nos. 1 & 2

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CORAM : S.S.SHINDE
AND
SANGITRAO S.PATIL, JJ.

DATED : 8.9.2016

PER COURT :

Not on Board. On mentioning, taken on
Board.

2. This Court on 22.8.2016 permitted the
petitioners to serve respondent no.3 by private
notice/service and file the affidavit of service
on or before 6.9.2016. It was indicated that in
case such affidavit of service is not filed, the

petition in respect of respondent no.3 shall stand dismissed without further reference to the Court.

3. Learned Senior counsel appearing for the petitioners submits that since 6.9.2016 was declared holiday the petitioners could not file the affidavit of service, though it was ready and same was filed on 7.9.2016 on the reopening day. However, the learned Registrar (Judicial) has passed the order on 7.9.2016 dismissing this petition against respondent no.3 as per the order, dated 22.8.2016.

4. Since 6.9.2016 was holiday, it was understandable that the petitioners could not file affidavit of service before 6th. The petitioners have filed Criminal Application No.5094 of 2016 praying therein for quashing and setting aside the order, dated 6.9.2016 passed by the learned Registrar (Judicial) dismissing Criminal Writ Petition No. 1072 of 2016 against respondent no.3 in default and to restore the petition so far as respondent no.3 is concerned to its original file.

5. For the reasons stated in the application, application is allowed in terms of prayer clause 'B'. Same stands disposed of.

6. Advocate Shri A.N.Kakade appearing submits that he has instructions to appear for respondent no.3. He prays two weeks time so as to enable him to file Vakalatnama and reply, if necessary. At his request, S.O. to 27.9.2016.

7. Ad-interim relief, granted on 22.8.2016, to continue till the next date of hearing.

(SANGITRAO S. PATIL, J.) (S.S.SHINDE, J.)

dbm/crap5094.16