

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO. 678 OF 2016***

Vishnupant Tatoba Vanungare,  
Budhgaon, Tal. Miraj, Dist.Sangli.

... Petitioner

v/s

1. Ganpatrao Shankarrao Venungare,  
R/o. Budhgaon, Tal. Miraj, Dist.Sangli  
& ors.

... Respondents

Mr.Vinod Sangvikar i/by Umesh Mankapure for the petitioner.

None present for the respondents.

***Coram: N.M. Jamdar, J.***

***Dated: 19 September 2016***

***ORAL ORDER:***

By the impugned order dated 4 April 2013, the learned Civil, Junior Division, Sangli, has rejected the application made by Defendant No.8 for setting aside the ex-parte order dated 5 July 2000.

2 The learned counsel for the Petitioner has sought to contend that the Petitioner/Defendant No.8 was not served and the summons

report at Exh.13 reveals that only Defendant Nos.1 to 7 and 9 and 10, were served but not the Petitioner/Defendant No.8. The learned counsel for the Petitioner submits that due to some unavoidable circumstances the Petitioner could not remain present and, therefore, it is seen from the impugned order that the application is decided without oral argument and, therefore, the report of the bailiff which is referred to in the application, could not be brought to the notice of the learned Civil Judge. Learned counsel for the Petitioner submits that, liberty be given to the Petitioner to approach the learned Civil Judge again with an application to point out the report of the bailiff and the learned counsel for the Petitioner undertakes to remain present when the application is taken up for consideration

3 In view of this position and the fact that the application has been decided without hearing the Petitioner and that the Petitioner has referred to the bailiff's report in the application, it will be appropriate if the liberty is given to the Petitioner to withdraw the said writ petition and to file a fresh application annexing the report of the bailiff, to be considered by the learned Civil Judge on its own merits without being influenced by the earlier order which was passed without hearing the Petitioner. With this liberty, the writ petition is disposed of as withdrawn.

*(N. M. Jamdar, J.)*