

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1598 OF 2016

IN

WRIT PETITION NO. 1238 OF 1998

Shri. Narayan Bandoba Shendge

...Applicant

Versus

Shri. Pandurang Kondiba Koli

...Respondent

Mr. S. Chaudhari, for the Applicant.

Mr. Dilip Bodke, for the Respondent.

CORAM : K.K. TATED, J.

DATE : 18th October 2016

P.C. :

1. Heard the learned Counsel Mr. Chaudhari for the Applicant.

2. The learned Counsel Mr. Bodke submits that though their name is shown on board on behalf of the Respondent, they have no instructions to appear in the present Civil Application. The statement is accepted.

3. The learned Counsel for the Applicant submits that they have already served the Respondent by private notice. To that effect, the learned Counsel for the Applicant filed Affidavit of Service dated 30th September 2016.

4. Though the Respondent is duly served, no one appeared on behalf of them.

5. Writ Petition No. 1238 of 1998 along with Civil Application No. 2105 of 2014 was dismissed for non prosecution by order dated 19th November 2015.

6. Considering the submissions made by the learned Counsel for the Applicant, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, the following order:

(a) Delay in preferring the Civil Application is condoned.

(b) Order dated 19th November 2015 by which the Writ Petition as well as the Civil Application No. 2105 of 2014 stands dismissed for non prosecution is recalled.

- (c) The Writ Petition No. 1238 of 1998 along with the Civil Application No. 2105 of 2014 is restored on file for hearing and final disposal on its own merits.
- (d) The Applicant is directed to serve the Respondent by private notice either by RPAD and/or by hand delivery informing them that the Writ Petition and the Civil Application is restored to file for hearing and final disposal on its own merits.
- (e) The Civil Application stands disposed of accordingly.

[K.K. TATED, J.]