

Sequeira

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

*CIVIL APPLICATION NO. 1185 OF 2016
in
CIVIL APPLICATION NO. 1348 OF 2014
in
WRIT PETITION NO. 1565 OF 2011*

Shri Ananta Balkrushna Patil

(Jorwar) & anr.

.. Applicants / Petitioners

Vs.

Suman Pandurang Kulkarni & ors.

.. Respondents.

Mr.Mahesh Rawool i/b Mr.Avinash Avhad, for Applicants and
Petitioners.

Mr.Ajay Joshi, for Respondent Nos.1 & 2.

*CORAM : N.M.Jamdar, J.
Friday, 7 October 2016.*

P.C. :

Though none of the reasons given in the Civil application No.1185 of 2016 can be considered as cogent as the Registry has provided various facilities to the advocates and litigants to be aware of the status of the matter, Since learned counsel for Applicants has tendered an apology that the cause of Applicant should not suffer, Civil Application No.1185 of 2016 is allowed in terms of prayer clause (a), (b) and (c).

2. In view of the position that Civil Application stands allowed, Civil Application No.1348 of 2014 also stands allowed and the Writ Petition is restored to file, taken up for consideration forthwith.

3. The order impugned in the Writ Petition is passed by the learned Civil Judge Junior Division Pandharpur, on 24 December 2010 under Order IX rule 13 of the Code of Civil Procedure rejecting the Application to set aside the ex parte decree. Against this order an appeal has been provided under the Code of Civil Procedure. Since a statutory appeal is provided, interference under Article 227 of Constitution of India is not warranted. The Writ Petition is accordingly disposed of. It is open to Petitioners to adopt such appropriate remedy to challenge the impugned order, that may be available in law.

(N.M.Jamdar, J.)