

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2440 OF 2014

Pramod Yashwant Panse (since Decd) ...Petitioner

Versus

Shri. Yashwant Vinayak Deo ...Respondent

....

Mr.N.V. Vechalekar i/b. N.V. Vechalekar & Co. for the Petitioner.

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CORAM : R. G. KETKAR, J.

DATE : 26th August, 2016

P.C.

1. Heard Mr.N.V. Vechalekar, learned Counsel for the petitioner.
2. Perused the order dated 21.7.2015. By that order, notice was issued to the respondents indicating that the matter may be heard and disposed of finally at the time of admission particularly in the light of the order dated 25.9.2014 passed in Writ Petition No.2814/2014. Conditional order was passed on 11.8.2015 giving two weeks time for completing service on respondents failing which Petition was to stand dismissed for non-prosecution without any further reference to the Court. By order dated 11.12.2015 passed in Civil Application No.2959/2015, Writ Petition was restored to the file after recording that the respondent was served and in evidence thereof the acknowledgment was annexed to Civil Application. Thus it is evident that as per order dated 21.7.2015, the respondent is duly served. However, none appears for the respondent. In view of the order dated 21.7.2015, Rule. Rule made returnable forthwith and Petition

is taken up for final hearing.

3. Mr. Vechalekar relied upon order dated 25.9.2014 passed by this Court in writ Petition No.2814/2014. By that order, the judgment and order dated 2.1.2013 passed by learned District Judge-6, Pune below Exhibit-1 in Civil Appeal No.239/2009 was quashed and set aside. By order dated 2.1.2013, the learned District Judge dismissed Civil Appeals No.238 to 241 of 2009, which also includes Civil Appeal No.240/2009 against which this Petition is filed. For the reasons recorded in paragraph-6 of the order dated 25.9.2014, even order impugned in the present Petition passed in Civil Appeal No.240/2009 deserves to be quashed and set aside thereby restoring Civil Appeal No.240/2009. Hence, the following order :

- [i] The judgment and order dated 2.1.2013 passed by the learned District Judge-6, Pune below Exhibit-1 in Civil Appeal No.240/2009 is quashed and set aside.
- [ii] Civil Appeal No.240/2009 is restored to the file of District Court.
- [iii] All contentions of the parties on merits are expressly kept open.
- [iv] Rule is made absolute in aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)