

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

WRIT PETITION NO. 357 OF 2015

Bhalchandra Shankar Patil .. Petitioner

Versus

Vinayak Shankar Patil and others .. Respondents

Shri B. R. Waramaa, Advocate for the Petitioner.
The Respondent Nos. 1 to 3 are served.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 13TH DECEMBER, 2017.**

FINAL ORDER :

. Though respondent Nos. 1 to 3 are served, none appears for respondent Nos. 1 to 3.

2. Heard Mr. Waramaa, the learned advocate for the petitioner. The written statement filed by the petitioner was accepted by the Trial Court subject to payment of cost of Rs. 500/-. The petitioner failed to deposit the cost, as such filed an application Exhibit 33 seeking liberty to deposit the cost. The application is rejected. Aggrieved thereby present petition.

3. This Court on 14.01.2015 directed issuance of notice and further directed the petitioner to deposit Rs. 1,000/- before the

Trial Court on or before 23.01.2015. Mr. Waramaa, the learned advocate submits that, the amount as directed by this Court is deposited.

4. As stated above, though the respondent Nos. 1 to 3 are served, none appears for the respondents.

5. I have also considered the reasons given by the petitioner. The suit is a substantive suit for declaration, so also mandatory and perpetual injunction. It is appropriate that the matter is decided on merits.

6. Considering the above, I pass following order.

7. The order below Exhibit 33 is quashed and set aside. The application Exhibit 33 is allowed on condition that the petitioner deposits further Rs. 4,000/- before the Trial Court on or before 05.01.2018. Rs. 1,000/- are already deposited. The respondents/plaintiffs are allowed to withdraw Rs. 5,000/- deposited by the petitioner. Deposit of amount as directed above is condition precedent. The writ petition accordingly is allowed in above terms. No costs.

[S. V. GANGAPURWALA, J.]