

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.179 OF 2017

IN

WRIT PETITION NO.5773 OF 2016

(Alka Namdeo Shelar Vs. Kaluram Housaram Harpale (decd) through heirs Pooja Kaluram Harpale & others)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
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Mr. Drupad S. Patil for Applicant.

Mr. S. R. Ghanavat i/b. Mr. V. S. Talkute for Respondent No.1(2).

CORAM : R. G. KETKAR, J.**DATE : 20TH JANUARY, 2017****P.C.:**

Heard Mr. Patil, learned Counsel for applicant and Mr. Ghanavat, learned Counsel for respondent No.1(2).

2. This is an application for restoration of Writ Petition qua respondents No.1(1) and 1(4).

3. Mr. Patil states that by order dated 08.07.2016, this Court permitted the petitioner to serve the respondent along with copy of Writ Petition by way of private notice and kept the matter on 25.07.2016. On 25.07.2016, this Court issued fresh notice to the respondent and also permitted the petitioner to give private notice to the respondents. By order dated 26.08.2016, this Court adjourned the matter as respondents were not served and

directed the petitioner to file affidavit of service before the next date of hearing failing which petition was to stand dismissed against unserved respondents. Mr. Patil submitted that as affidavit of evidence was not filed qua respondents No.1(1) and 1(4), Petition stood dismissed. He submitted that notices were not served on respondents No.1(1) and 1(4) in the main Petition.

4. In view thereof and for the reasons set out in the Application, Civil Application is allowed in terms of prayer clauses (a) and (b) with no order as to costs. Writ Petition No.5773 of 2016 is restored to its file qua respondents No.1(1) and 1(4).

(R. G. KETKAR, J.)

Minal Parab