

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3949 OF 2002
IN
FIRST APPEAL (STAMP) NO. 34860 OF 2001

Shri Birappa N. Mullya .. Applicant/ Appellant
vs.
Shri Shahiraj Raizada & Anr. .. Respondents

Mr. N. J. Patil for Applicant / Appellant.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE : 06 MARCH 2017

P.C :

1] On 16 January 2017, this court made the following order :

"1] Learned counsel for the applicant states that necessary steps will be taken to serve respondent No.1.

2] The record indicates that respondent No.2 is already served. Accordingly, stand over to 30 January 2017. In the meanwhile, the applicant to take steps to serve respondent No.1. In addition to usual mode of service, the applicant is permitted to effect private service upon respondent No.1 and thereafter to file an affidavit of service."

2] Today, Mr. N. J. Patil, learned counsel for the applicant places on record three notices along with the closed envelopes, in which the same were addressed to the applicant / appellant requesting for clear instructions. The notices have returned unserved with the remarks 'Not known'.

3] Mr. Patil states that in these circumstances, he has done his best to effect service upon respondent no. 1. The envelopes / notices are kept on record.

4] The appeal relates to the year 2001. It is not possible to grant any further time. Mr. Patil states that in the letter addressed by him to the applicant, he has made clear that he is filing a '*no instructions pursis*' in the matter.

5] Mr. Patil requests that in the aforesaid circumstances, he should be discharged from appearing in the matter. Mr. Patil is discharged from appearing in the matter.

6] In view of the aforesaid, the civil application and consequently the appeal itself is dismissed for non prosecution.

(M. S. SONAK, J.)