

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

CIVIL APPLICATION NO.15040 OF 2018
IN WP/12206/2018

JAGDISH PURUSHOTTAM BADAWE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Devdatt P. Palodkar
AGP for Respondents No.1 to 4 : Mr. R. D. Sanap
Advocate for Respondents No. 5 and 7 : Mr. Pratik P. Kothari
...

**CORAM : T.V. NALAWADE &
K. K. SONAWANE, JJ.**

DATED : 18th JULY, 2019.

ORDER :-

The application is filed for recalling the order of dismissal passed by this Court in Writ Petition 12206 of 2018.

2. Heard both the sides. This Court has carefully gone through the said order.

3. It appears that the counsel for petitioner was not present. This Court observed that it was open to the Decree-Holder to approach appellate authority or competent court for getting relief claimed in the petition. The decree is given for partition and separate possession of the agricultural property in ordinary course and as prescribed by Section 54 of the Code of Civil Procedure, 1908, the decree is sent for partition to the Revenue authority and the matter remains with it till actual partition is effected by them.

4. In view of aforesaid circumstances and as the counsel is taking blame to himself as well as the applicant is ex-serviceman, this Court holds that previous order passed by this Court needs to be recalled.

5. Hence, the order :-

- (i) The application is allowed in terms of prayer clause 'B'.
- (ii) Writ Petition No. 12206 of 2018 is to be restored at it's original stage.
- (iii) In original proceedings bearing W.P.No.12206 of 2018, issue notice to the respondents, returnable in due course.
- (iv) Learned APP waives service of notice for respondents No.1 to 4 - State, whereas, Mr. Pratik P. Kothari, learned counsel waives service of notice for respondents No. 5 and 7.
- (v) Notice by RPAD and private notice to respondent No.6 is allowed. Hamdast allowed.
- (vi) Matter be placed before the Regular Court.

[K. K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

rrd.