

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2654 OF 2018
IN
WRIT PETITION NO.4032 OF 2012**

Ganpat Balaram Bhagat

.... Applicant

versus

The State of Maharashtra & Ors.

.... Respondents

.....

- Mr.Ashok T. Gade, Advocate for Applicant.
- Mr.P. J. Gavhane, AGP for Respondent Nos.1 to 4.
- Mr.Jaydeep Deo i/b. Snehal Ratnakar, Advocate for Respondent No.6.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATE : 31st JANUARY, 2020.**

P.C. :

1. Heard learned Counsel for the parties.
2. Learned Counsel Mr.Ashok T. Gade for Applicant submits that as per earlier order dated 29/11/2019 passed by this Court they have served the Respondent No.5 by private notice along with entire proceedings i.e. Civil Application as well

as Writ Petition. He submitted that to that effect he has filed affidavit of service dated 11/12/2019 (wrongly mentioned as December '2009').

3. In spite of that no one appeared on behalf of Respondent No.5.

4. Learned Counsel for Applicant submits that it remained on the part of Applicant to serve the Respondent No.5 in time as per the order dated 21/10/2013 passed by the learned Registrar (Judicial-I). Hence matter was dismissed against the said Respondent.

5. Learned Counsel for Applicant submits that Respondent No.5 is also served by private notice. He submitted that in the interest of justice this Court be pleased to allow the present application and set aside the order dated 21/10/2013 and hold that the Respondent No.5 is already served in Writ Petition also.

6. Considering the submissions made by learned Counsel for Applicant, averments made in Civil Application and affidavit of service dated 11/12/2019, we are satisfied that Applicant has made out case for allowing the Civil Application and also to hold that the Respondent No.5 is duly served in Writ Petition No.4032/2012. Hence following order is passed:

- (a) Order dated 21/10/2013 passed by learned Registrar (Judicial-I) is set aside.
- (b) Writ Petition No.4032/2012 is restored to the file against Respondent No.5.
- (c) Affidavit of service filed by the Applicant shows that the Respondent No.5 is served with a copy of Petition also. Hence office objections about service are waived.
- (d) Civil Application stands disposed of accordingly.
- (e) No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)