

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

**INTERIM APPLICATION NO.3737 OF 2021
IN
WRIT PETITION NO.10074 OF 2018**

Mr. Vyankatesh Laxman Shakantla ..Applicant

IN THE MATTER BETWEEN

Mrs. Juliana Joseph D'mello ..Petitioner

Versus

Mr. Tutukulla Vayankattasubhaia Mallayya
and Anr. ..Respondents

Mr. Prabhanjan Gujar, for the Applicant/Org. Respondent No.2.
Mr. R. V. Govilkar a/w Shaba N. Khan i/by Govilkar & Associates,
Orig. Petitioner/Respondent in IA.

CORAM : NITIN W. SAMBRE, J.

DATE : 28th MARCH, 2022

PC.

1. This Court vide order dated 20th January, 2021 has allowed the writ petition whereby prayer of the petitioner/plaintiff for amendment of plaint at appellate stage was granted.

2. The review is sought by the applicant herein on the ground that the matter was heard virtually during pandemic and the prayer for listing of the matter is required to be dealt with in accordance with Standard Operation Procedure (SOP) prescribed by the High Court. Mr. Prabhanjan Gujar would urge that though the

applicant has received an intimation about the listing of matter on 19th January, 2021, the matter was not listed on the same date but listed on 20th January, 2021. The board of 20th January, 2021 does not disclose the appearance of advocate for the applicant. As such, for want of specific intimation as prescribed under SOP, the writ petition was heard in his absence and was accordingly allowed. As such, according to him, there was denial of opportunity of hearing to the applicant.

3. Mr. R. V. Govilkar, learned counsel for the original petitioner has invited my attention to the email dated 16th January, 2021. Mr. R. V. Govilkar would urge that once the email was sent to the lawyer of the respondent to the writ petition i.e. the applicant, it was his duty to verify the same. There is no process of confirmation of email about listing of the matter. Apart from above, he would urge that even if the notice was not received about listing of matter to the applicant, it was for the him to verify from the daily board. As such, according to him, the applicant had enough notice of the hearing and has chosen not to appear. That being so, prayer for rejection of the application is made.

4. Considered submissions.

5. The matter was heard during covid-19 pandemic. In the light of Standard Operation Procedure, it was expected of the party who intend to circulate the matter to inform other side about listing

of matter before that to by presenting preceipe 48 hours before. Accordingly, notice through e-mail of hearing, was issued on 19th January, 2021, whereas the matter was listed on 20th January, 2021. Admittedly, about listing of matter on 20th January, 2021, no notice was received by the applicant. The applicant remained unrepresented which has resulted into passing of the order under review. As such, since the order dated 20th January, 2021 was passed without hearing the applicant, same for the above reasons amounts to denial of opportunity of hearing. As such, same stands recalled. The writ petition stood restored to the file.

6. The application stands allowed.

[NITIN W. SAMBRE, J.]