

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRA NO.100 OF 2019

ANANT NARHARI SHEP AND OTHER
VERSUS
AFSAR MOHIUDDIN GULAM MOHIUDDIN AND OTHER

...

Advocate for Applicants : Mr. Bhadekar D.R.
Advocate for Respondents No.1,2,4 and 5: Mr. Mujtaba Gulam Mustafa

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CORAM : ARUN R. PEDNEKER, J.
DATE : 19/08/2023

PER COURT :

The impugned order dated 04/04/2000, is passed under Order VII Rule 11 (d) of the Code of Civil Procedure.

2. On the perusal of the order, it appears that none has appeared for the applicants before the Court. The learned Advocate for the applicants submits such order came to be passed in his absence. In view of the submission made, the learned Advocate appearing for respondents submitted that earlier also an opportunity was given to the appellant, however he remained absent. Thus, the Court was constrained to adjudicate the application on merits.

3. However, since the application was decided on merits in absence of the applicant, I deem it appropriate to set aside the impugned order and send the matter back to the Tribunal to decide the application under Order VII Rule 11(d) of the Code of Civil Procedure within a period of four weeks from the receipt of this order. The parties not to

take any adjournment in the matter.

4. I have not observed anything on the merits in the matter and Tribunal to take its own decision on merits. The learned Advocate for the applicants submit that he would pay cost of Rs.10,000/- to the Library of the Advocates Association of High Court at Bombay Bench At Aurangabad, for the delay and inconvenience caused.

5. The applicants to pay cost of Rs.10,000/- (in words rupees ten thousand) to the Library of the Advocates Association, High Court Bombay Bench At Aurangabad within a period of three (3) weeks from the receipt of the order.

6. The impugned order is set aside and the matter is remitted back to the Tribunal for fresh adjudication.

7. The Tribunal to decide the matter within a period of four weeks and need not wait until deposit of cost in this Court by the applicants.

8. In view of the above, the application is disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.