IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 14991 OF 2026

Vitthal Bhausaheb Lanke
VERSUS
Leelabai Bhausaheb Lanke And Others
...
Mr.Ghatol Patil Shahaji B. for the Petitioner.
...

CORAM : MANJUSHA DESHPANDE, J.
DATE : 23.10.2026

PER COURT :

1. The Petitioner has approached this Court seeking a direction to quash and set aside the order dated 02.09.2026 passed below Exhibit 102 by the Joint Civil Judge, Junior Division, Shrigonda in R.C.S. No.289 of 2025, and also seeking a direction to allow the Petitioner to serve Respondent Nos.21, 22, 29, 39 and 47 by substituted service i.e., paper publication in a daily newspaper, which is widely circulated in the region.

2. According to the Petitioner, he has filed a Suit, i.e., R.C.S. No.289 of 2025 for partition, separate possession, and declaration that the sale deeds executed are illegal, null and void, and not binding on the share of the Petitioner. Considering that third-party interests have already been created and apprehending that further third-party interests will be created by the Respondents, he seeks expeditious disposal of the suit as well as his Exhibit-5 application.

3. According to the Petitioner, in spite of best efforts made by him, Respondent Nos.21, 22, 29, 39 and 47 could not be served. He has attempted to serve them thrice. However, they could not be located on the given address, and the service report has been returned with an endorsement that they were not found on the given address. It is submitted that summons was attempted to be served on the Respondents at the address last known to the Petitioner, but they could not be served. According to him, they are intentionally avoiding service in the present suit, although they have been served through paper publication and caused appearance in another suit, i.e., Special Civil Suit No. 21 of 2019, pending before the learned Civil Judge, Senior Division, Shrigonda. This supports his apprehension that the Respondents are avoiding service while attempting to create third-party interests.

4. The application filed by the Petitioner for issuance of substituted service by way of paper publication was rejected by the Joint Civil Judge, Junior Division, Shrigonda, on the ground that the Petitioner has not established that he took reasonable efforts to serve the Respondents as contemplated under Order 5 Rule 20 of the Code of Civil Procedure, 1908 and that service report of service through R.P.A.D. are still awaited, therefore, no such substituted service is permitted against the Respondents. It is also held that, nothing is placed on record to show that the plaintiff has taken reasonable efforts for ascertaining the present and correct address for the concerned Defendants.

5. Upon perusal of the order and hearing the learned Advocate for the Petitioner, it is evident that attempts were made to serve Defendant Nos.21, 22, 29, 39 and 47 thrice on the address last known to the Petitioner, but they could not be served. He further submits that, in the other suit, the very same Respondents have entered appearance and were served by way of paper publication. Considering that the Petitioner, who is the original plaintiff has tried to serve the Defendant Nos.21, 22, 29, 39 and 47 thrice, which could not be served on them establishes that he has taken sufficient and reasonable efforts. Having failed to effect service through the regular mode, it would be just and proper to permit the Petitioner to serve the said defendants by substituted service as provided under Order 5 Rule 20 of the Code of Civil Procedure, 1908.

6. In the result, the order passed by the Joint Civil Judge, Junior Division, Shrigonda below Exhibit 102 is quashed and set aside. The Petitioner is permitted to serve Defendant Nos.21, 22, 29, 39 and 47 by issuing notice through paper publication in daily newspaper, widely circulated in Ahmednagar and Pune districts. The aforementioned publication shall be issued in 'Daily Sakal' within a period of two weeks. After paper publication, the plaintiff shall submit proof of service of notice with the paper cutting and an affidavit in the Trial Court, within one week of such publication.

7. With the aforementioned directions, the Writ Petition stands disposed off.

[MANJUSHA DESHPANDE, J.]