

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

**CIVIL APPLICATION NO. 11203 OF 2015
IN
SECOND APPEAL NO. 349 OF 2009**

Sandeep Dinkarrao Deshmukh and another ...APPLICANTS

versus

Laluram Tularam Bhurewal Since Deceased
Through L.Rs. And others ...RESPONDENTS

.....
Mr. K.J. Surywanshi, Advocate for applicants
Mr. L.B. Pallod, Advocate for respondents No. 1/1 to 1/3
.....

CORAM : SUNIL P. DESHMUKH, J.

DATED : 27th NOVEMBER 2015

Order :-

1. Heard learned counsel for the parties.
2. Learned counsel for the applicants submits that he was unaware about the order dated 24-06-2015. It is further being submitted that due to inadvertence advocate could not appear in the matter though it was listed on the board. Learned counsel for the respondents, however, has reservations about the submissions. He has pointed out that earlier twice the matter had been dismissed in default and also restored and this is the third occasion that the matter has been dismissed. He further submits that the court should be on guard while appreciating said submissions.
3. However, looking at that for absence of the advocate, litigant

may not suffer, I deem it appropriate that application be considered favourably subject to costs of Rs. 1000/- payable to the respondents or their counsel.

4. Accordingly, civil application, for the reasons contained therein, is allowed in terms of prayer clauses "B" and "C" subject to payment of costs of Rs.1000/-. Costs to be paid to the respondents or their counsel within a period of two weeks from today. Deposit of costs is condition precedent. In case of failure to make payment of costs, order impugned stands revived.

5. Civil application stands disposed of accordingly.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK