

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

**CIVIL APPLICATION NO. 158 OF 2015
IN
SECOND APPEAL NO. 342 OF 2013**

Jagannath S. Sable

... Applicant.

V/s.

Baban Shankar Sable & Others.

... Respondents.

Mr. V. B. Tapkir, Advocate, i/by R.s.Kadam, for the Applicant.

**CORAM : K. K. TATED, J.
DATE : 29th SEPTEMBER, 2015**

P.C. :

1 Heard the learned counsel Mr. Tapkir for the Applicant.

2 It is not necessary to issue notice to the respondents because by this civil application, the applicant is seeking restoration of the second appeal no. 342 of 2013 against the respondent nos. 7, 8 & 9, which was dismissed in view of the conditional order dated 24th September, 2014 passed by the Registrar (Judicial -II).

3 Learned counsel for the applicant submits that as per his knowledge, the respondent no. 7 is residing at the same

address but he is avoiding the service. The learned counsel submits that as regards respondent nos. 8 and 9, they have now shifted their residence from one place to another place. He submits that the applicant undertakes to provide the present correct address of respondent nos. 8 and 9 within one week from today. Statement is accepted.

4 Learned counsel for the applicant submits that in the interest of justice this Hon'ble Court be pleased to direct the office to issue fresh notice to respondent no.7 on his present correct address, as stated in the cause title. He further submits that the Registry may be directed to issue fresh notice to the respondent nos. 8 and 9 at their present correct address, after provided. He submits that if this application is not allowed, an irreparable loss will be caused to the applicant. He submits that the applicant has good chances of success in the present matter on merits.

5 Considering the submissions made by the learned counsel for the applicant and the averments made in the application, I am satisfied that the applicant has made out a case for allowing this application. Hence, the following order :

- i. This civil application is allowed.

- ii. The order dated 24th September, 2014 passed by the Registrar (Judicial -II) in Second Appeal No. 342 of 2013 is set aside.
- iii. Second Appeal No.342 of 2013 is restored to file against the Respondent Nos. 7 to 9.
- iv. Office is directed to issue fresh notice to Respondent No.7, returnable after twelve weeks.
- v. The applicant is directed to provide present correct address of Respondent Nos. 8 & 9 within two weeks from today; failing which the application shall stand dismissed without referring back to the court.
- vi. If the present correct address is provided within the stipulated time, the office is directed to issue fresh notice to Respondent Nos. 8 and 9 at the present correct address, returnable after twelve weeks.
- vii. In addition to usual mode of service, the applicant is permitted to serve the respondent nos. 7 to 9 by private notice either by registered post A.D. and/or by hand

delivery and file affidavit of service to that effect.

6 Civil application stands disposed of accordingly.

(K. K. TATED,J.)

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CETIFICATE

Certified to be true and correct copy of the original
signed order.
