

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

**CIVIL APPLICATION NO. 848 OF 2014
IN
CIVIL APPLICATION NO. 967 OF 2012
IN
R.C. NO. 596 OF 2014
(Second Appeal (st.). No. 8973 of 2012)**

Shri Narayan @ Sunil Bhikulal
Dhumal and Others.

... Applicants.

V/s.

Smt. Vatsalabai Shamrao Dhumal & Others. ... Respondents.

Mr. Chaitanya Nikte i/by S. S. Kulkarni, Advocate for the
Applicants.

Mr. Shailesh Chavan, Advocate i/by Mr. Milind Deshmukh,
Advocate for Respondent Nos. 1 to 3.

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

P.C. :

1 Heard the learned counsel for the parties.

2 This civil application is for recalling of the order dated 6th December, 2013 passed by this court (Coram : R.Y. Ganoo,J) in Civil Application No. 967 of 2012 in Second Appeal (St.) No. 8973 of 2012. The learned counsel for the Applicants, submits that on 6th December, 2013, writ petition no. 3079 of 2012 as well as civil application no. 967 of 2012

were on board for hearing. At that time, Advocate appearing on behalf of the applicants made a statement upon instructions to withdraw the writ petition no. 3079 of 2012 only and not the civil application no. 967 of 2012 in Second Appeal (St.) No. 8973 of 2012 which was filed for condoning the delay in filing the second appeal. He submits that by mistake the order dated 6th December, 2013 is recorded in civil application no. 967 of 2012 also. Hence, the order recorded in civil application no. 967 of 2012 be recalled and the matter to be heard on its own merits.

3 On the other hand, the learned counsel Mr. Shailesh Chavan, appearing on behalf of the respondents submits that they have no objection if the civil application is allowed.

4 Considering the submissions made by the learned counsel for the applicant and the averments in the civil application, I am satisfied that the applicant has made out a case for allowing the civil application.

5 Hence, following order is passed :

- a) Civil application is allowed.
- b) The delay in filing the application is condoned.

c) The order dated 6th December, 2014 passed by this court (Coram : R. Y Ganoo,J) in Civil Application No. 967 of 2012 in Second Appeal (st.) No.8973 of 2012 is recalled.

d) Civil application No. 967 of 2012 is restored to file for hearing on its own merits.

6 Office is directed to place the civil application No. 967 of 2012 on board for orders on 9th October, 2015.

7 Civil Application is disposed of accordingly.

(K. K. TATED,J.)

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CERTIFICATE

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