

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

***CIVIL APPLICATION NO. 1585 OF 2015
IN
SECOND APPEAL NO. 84 OF 1989***

Shri Tukaram Ganpati Gothkhinde

(since deceased through heirs)

1 a. Shri Pandurang Tukaram Gothkhinde

& ors.

... Applicants

v/s

1. Shri Akaram Ganpati Gothkhinde & ors.

... Respondents

Shri Bhushan Walimbe for the applicants.

Ms.Ashwini padalkar i/by M/s.Divekar & Co. for Resp. Nos.1, 3 to 5.

Coram: N.M. Jamdar, J.

Dated: 29 July, 2016

P.C.:

The civil application is taken out for restoration of the second appeal which was dismissed for non-prosecution, on 12 June 2015. The application was filed immediately on 23 June 2015. It appears that, when the application came up on board, learned counsel for the Respondents submitted that she does not have any instructions to appear in the civil application and, therefore, notices had to be issued and after issuance of notices, after lapse of one year, the same learned

counsel for the Respondents now appears. The time lost in hearing this application for restoration is entirely because the learned counsel for the Respondents refused to accept the service.

2 Considering the cause made out in the application and that the learned counsel for the Applicant has tendered an unconditional apology, the civil application is allowed in terms of prayer clause (a).

3 Place the appeal on board in the week commencing from 25 August 2016.

4 Learned counsel for the Appellant undertakes that no adjournment will be sought when the appeal will be called out on the next occasion.

(N. M. Jamdar, J.)