

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR****MISC. CIVIL APPLICATION NO. 949/2014 IN SECOND APPEAL NO.38/2013****(Smt. Udabai w/o Sumeri Sahala and ors...vs..Darel s/o Dulsingh Bhaisa and anr.)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Rohit Joshi, Advocate for applicant.

Mr. S. R. Renu, Advocate for non applicant.

CORAM : A. B. CHAUDHARI, J.**DATE : FEBRUARY 17, 2016**

Heard learned counsel for the rival parties.

This is an application for restoration of Second Appeal No.38/2013 that was dismissed in default. The appeal was posted for admission when it was called out. Hence, it was dismissed in default. Learned counsel for the non applicant vehemently opposed the application on the ground that applicant remained absent consistently as could be seen from the docket.

In view of the fact that the appeal itself was not heard for admission on merits, I think, the non applicant can be compensated by suitable order of costs for granting order of restoration. Hence following order is passed.

ORDER

- (i) Misc.Civil Application No.949/2014 is allowed.
- (ii) Rule made absolute in terms of its prayer clause, subject to payment of cost of Rs.1,000/- by applicant to respondent within a period of six weeks from today.

JUDGE