

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

**CIVIL APPLICATION NO. 10694 OF 2016
IN FAST/964/2012**

JIJABAI LAXMAN PATIL AND ORS
VERSUS
PARMAR LILBHAUJSINGH JOGENDARSINGH AND ANR

...
Advocate for Applicants : Mr. M. M. Bhokarikar.
Advocate for Respondent No.2 : Mr. M. S. Kulkarni.

...
WITH CA/10696/2016 IN FAST/964/2012
...

CORAM : K.K. SONAWANE, J.

DATED : 15TH DECEMBER, 2017.

Order :-

Leave to correct prayer clause.

2. Heard Mr. Bhokarikar, learned counsel for applicants and Mr. Mukul Kulkarni, learned counsel for respondent No.2 – New India Assurance Company Limited. Perused the application.

3. This Court under Order dated 02-11-2012 passed conditional order to take steps against unserved respondents, failure to which, matter stands dismissed automatically without further reference to the Court. Pursuant to order of this Court dated 02-11-2012, the Registrar of this Court dismissed the proceedings of the applicants for non compliance of objection as the requisite steps against unserved respondents were not taken. Thereafter, the applicants moved the application for re-issue notice to unserved respondent No.1 through paper publication. But, the proceedings of appeal was already dismissed for not taking steps. The civil application filed for paper publication on behalf of applicants could not be processed and the objection was notified that the applicants shall file civil application for setting aside the impugned order of dismissal of proceedings for not taking steps against respondent No.1. Accordingly, the applicants preferred present application for setting aside the impugned order

passed by learned Registrar dated 21-06-2016 as the applicants have already preferred the application for re-issue notice to unserved respondent.

4. In view of nature of subject matter and submission on behalf of learned counsel for applicants, there is no impediment to allow the application. Accordingly, civil application stands allowed in terms of prayer clause 'B' and 'C'. The impugned order passed by learned Registrar dated 21-06-2016 is hereby quashed and set aside. Consequently, the order of dismissal of proceedings of appeal is hereby up-set and the proceedings First Appeal (Stamp) No. 964 of 2012 be restored at it's original stage. The Registry is hereby directed to take requisite steps for further process for publication of notice against respondent No.1. Accordingly, civil application is disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.