

Amrut

***IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.851 OF 2017
IN
STAMP NUMBER MAIN NO.727 OF 2013***

Shri Laxman S. Gaokar		Applicant
Versus		
Smt. Pramila Kanta Naik & Ors		Respondent

Mr. P. Talaulikar, Advocate for the Applicant.

Coram : N.M. Jamdar, J.

Date : 16 November 2017.

P.C.:

Heard the learned counsel for the Applicant.

2. Considering the facts and circumstances and the reasons set out in the application, the Civil Application is allowed. Stamp Number Main No.727 of 2013 stands restored to file.

3. As far as Respondent No.1 is concerned, the Remark made by the registry dated 19 February 2014 states that the notice to Respondent No.1 was returned unserved as she had refused to accept the notice and also did not allow affixing on the door. This is an error on the part of registry. There is no question of notice being returned

unserved when according to the Registry, the bailiff report states that the recipient has refused to accept the notice. This will have to be treated as good service and registry ought to have placed such an endorsement. The consequence for not placing such endorsement has resulted in dismissal of the appeal for non prosecution.

4. As far as Respondent No.3 is concerned, the learned counsel for the Applicant states that his heir, Respondent No.2 is already on record. The affidavit to that effect be filed within a period of two weeks after ascertaining that all compliance are done. The registry will place the appeal after it is ready on board for admission.

N.M. Jamdar, J.