

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.12 OF 2017
IN
SECOND APPEAL NO.758 OF 2007**

Shalini B. Kulkarni & Ors. ... Applicants/Appellants

IN THE MATTER BETWEEN

Shalini B. Kulkarni & Ors. ... Applicants/Appellants

Versus

Madhuri C. Pisat & Ors. ... Respondents

.....

Mr. Sachin S. Pune, Advocate for the Appellants/Applicants .

Mr. Anand S. Kulkarni, Advocate for the Respondent Nos.2, 4A to 4C and 5A to 5C.

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CORAM : S.C.GUPTE, J.

DATE : 10 FEBRUARY 2017

P.C. :

. This Civil Application seeks recall of a self operative order of dismissal passed by this Court on 21.11.2007. By the said order, the applicants were directed to pay bhatta within the stipulated period failing which the appeal was to stand dismissed for non-prosecution. It is the case of the applicants/appellants that the bhatta was duly paid but through oversight, the Second Appeal was shown as dismissed in the case status of the Court site. Order of dismissal dated 21.11.2007 is recalled and set aside and the Second Appeal is restored to the file. The Second Appeal to come

up for Admission on 21.3.2017. Issue notice to the Respondents returnable on 21.3.2017. The Applicants/Appellants are also also permitted to effect private service and file affidavit of service by the next date.

2 Civil Application No.1425 of 2007 is also restored to file. Issue rule in that Civil Application also returnable on 21.3.2017. The learned counsel for the Applicants/Appellants prays for restoration of ad-interim relief granted by this Court on 24.10.2007. By this order, the impugned judgment and decree of the first appellate Court was stayed. The learned counsel for the applicants/appellants has informed this Court the state of affairs that the impugned judgment and decree is not still executed and the notice issued by the trial Court for survey of the land on 5.11.2016 is annexed to the Civil Application. From the notice, it is apparent that the impugned judgment and decree of the first appellate Court is yet to be executed. In the premises, ad-interim relief granted by this Court in terms of prayer clause (a) of the Civil Application No.1425 of 2007 is restored. The Civil Application along with the Second Appeal shall be considered on 21.3.2017.

(S.C.GUPTE, J.)