

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

CIVIL APPLICATION NO.13878 OF 2018 IN
CIVIL APPLICATION NO.10819 OF 2018 IN
SECOND APPEAL NO.305 OF 2011

Shaikh Majid Shaikh Jamal & ors.

...APPLICANTS

VERSUS

Kaduba s/o Sadashiv Landge & ors.

...RESPONDENTS

.....
Mr. Quadri Taher Ali, Advocate holding for
Mr. Mujtaba Gulam Mustafa, Advocate for applicants
.....

CORAM: A.M. DHAVALÉ, J.

DATED : 7th December, 2018.

ORAL ORDER :

1. The Second Appeal was dismissed by conditional order dated 2.9.2013. Application for restoration No.7784/2017 was filed which came to be dismissed in default on 20.7.2017. From the submissions of learned Advocate for the applicant, there seems to be some arguable reasons for the same. Two applications i.e. Civil Application No.10819/2018 and 14560/2017 were filed for restoration of the same. Civil Application No.14560/2017 was not maintainable when already application for restoration of Civil Application was filed.

On 29.8.2018, both the applications came to be dismissed in default as the applicant and Advocates were absent.

2. Learned Advocate Mr. Quadri Taher Ali submits that, Advocate Mujtaba Gulam Mustafa, who was on record, had filed leave note and he himself was instructed to take steps, but he was busy in other Court. The application for restoration of the said application is filed after 5 days. Considering the facts, this Civil Application No.13878/2018 is allowed. Civil Application No.10819/2018 is restored to file subject to condition that the appellant shall take immediate steps within one week for progress of the Civil Application.

3. Issue notices to respondents in Civil Application No.10819/2018 returnable on 18th January 2019.

(A.M. DHAVALA)
JUDGE

fmp/