

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

**915 CIVIL APPLICATION NO. 14895 OF 2017
IN CAST/34000/2017**

**MAHADEO LAXMANRAO DHAPTE AND ANR.
VERSUS
PARWATIBAI LAXMANRAO GAVADE AND ORS.**

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Advocate for Applicants : Shri N.R.Thorat

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CORAM : P.R. BORA, J.

Date: July 17, 2018

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PER COURT :-

1 Heard Shri N.R.Thorat learned Counsel appearing for the applicants.

2 The applicants have filed the present application for restoring the Second Appeal on Stamp No.6193 of 2016 to its original file by condoning the delay, which has occurred in filing the application. The learned Counsel submits that the aforesaid Second Appeal on Stamp was withdrawn by the present applicants on 05.07.2017. The learned Counsel further submitted that however, the respondents are not acting upon the

terms of settlement and in the circumstances, the applicants are required to file present application seeking restoration of the Second Appeal on Stamp.

3 I have perused the order passed by this Court (Coram: N.W.Sambre, J.) on 05.07.2017, which reads thus:-

" Parties are present before this Court and are identified by their respective Counsel.

2. Parties to the appeal claim to have settled the dispute amicably and as such the learned Counsel appearing on behalf of the appellants seeks leave to withdraw the appeal. Leave granted. Second Appeal stands dismissed as withdrawn.

3. In view of withdrawal of the appeal, pending Civil Applications do not survive and stand disposed of accordingly."

4 From the order, it is quite obvious that the

applicants/appellants had voluntarily withdrawn the said appeal and as such it was dismissed as withdrawn.

5 Considering the order so passed, it does not appear to me that the present application can be entertained for restoration of the said appeal, which was permitted to be withdrawn in pursuance of the leave sought for by the present applicants.

6 In the circumstances, the present application cannot be entertained. However, it would be open for the applicants to avail appropriate remedy if the respondents are not getting abide by the terms of the settlement.

7 Civil application stands disposed of.

(P.R. BORA, J.)

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