

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.434 OF 2018
IN
SECOND APPEAL NO.164 OF 2012

Harishchandra V. Pednekar ... Applicant

Vs.

Jagdish S. Bhovar & Ors. ... Respondents

Mr.M.N. Gawankar i/b Sharon Patole for the Applicant
Mr.R.D. Gude i/b Khandeparkar & Associates for Respondent No.1.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **APRIL 12, 2018**

P.C.:

1. This application is filed for recalling the order dated 19.12.2017 passed in the Second Appeal.

2. The learned Counsel for the applicant submits that the appeal was dismissed on 19.12.2017 for want of prosecution. He submits that the said order be recalled. He submits that there is a delay of 11 days in filing this Civil Application, which be also condoned. The learned Counsel submits that on 19.12.2017, the advocate for the applicant was attending matters in other Courts and therefore, could not reach on time. The applicant has good case on merits and therefore, it be restored to its original file.

3. Learned Counsel for the respondent No.1 submits that earlier also, this appeal was dismissed for want of prosecution and hence, it is not to be allowed.

4. In view of the submissions, it is a second dismissal of the appeal for want of prosecution and hence, the following order is passed:

i) Considering the period of delay of 11 days, the delay is condoned.

ii) The order dated 19.12.22017 dismissing the appeal is hereby recalled and the appeal is restored to its original file on condition that the appellant pays costs of Rs.5,000/- to the respondents, on or before 27.4.2018.

5. List the Second Appeal on 4.7.2018 for admission.

6. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)