

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.3013 OF 2017
IN
WRIT PETITION NO.3843 OF 1996**

Smt.Laxmi Appa Parab Kalsekar
since deceased, through legal heirs:
(c) (iv) Kum. Rupali Baban Parab ... Applicant

IN THE MATTER BETWEEN:

1. Smt.Laxmi Appa Parab Kalsekar
since deceased, through legal heirs:
a. Smt.Sita shivram Parab
since deceased, through legal heirs:
i) Shivram Vishram Parab & Ors. ... Petitioners

Vs.

1. Smt.Indirabai Mahadeo Nadkarni
since deceased, through legal heirs:
1. Smt.Prabhavati Anil Pandit & Ors. ... Respondents

Mr.M.V. Rawool for the Applicant
Ms.S.A. Mudbidri for Respondent Nos.2 and 3A to 3D

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 28, 2018**

P.C. :

1. Learned Counsel for the applicant submits that the Writ Petition was dismissed for default by order dated 15.9.2017. The learned Counsel submits that thereafter within 30 days, i.e., on 6.10.2017, he moved the application for restoration of this Writ Petition. The learned Counsel submits that the matter was called

out before the Court when his advocate was held up in other Court. He submits that it was not intentional and for this reason, the litigant should not suffer.

2. Ms.Mudbidri appears for Respondent Nos.2 and 3A to 3D.

3. Notice is not issued to Respondent No.1. However, the learned Counsel for the applicant makes a statement that he will give notice of Writ Petition No.3843 of 1996 to all the respondents especially the legal heirs of respondent No.1. The statement of the learned Counsel is accepted and as the Writ Petition is of 1996, so also, for the reasons mentioned in the application, this application is allowed. The order dated 15.9.2017 is hereby recalled and the petition is restored to its original file. However, the learned Counsel for the applicant i.e., the original petitioner, is directed to inform respondent No.1 or the legal heirs of respondent Nos.1 and 2. Registry to issue notices to respondent Nos.1 and 2, returnable on 26.7.2018, for final hearing. The petitioners to remain present.

4. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)