

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

*CIVIL APPLICATION NO. 890 OF 2009
IN
SECOND APPEAL NO. 487 OF 1995*

Baburao Agatrao Pawar (since deceased
through legal heirs) & Ors. ... Applicants/Appellants

V/s.

Bhanudas Narayan Kulkarni (since
deceased through heirs) & Ors. Respondents

Mr. Sukhman Rait i/b. S.S. Patwardhan for the applicants.
Mr. Prathamesh Bhargude for respondent nos.1 to 5.

CORAM : N.M. Jamdar, J.

DATE : 01 February, 2018.

P.C. :-

Heard the learned counsel for the applicants/appellants. Learned counsel for the applicants/appellants has tendered an unconditional apology for not complying with the order dated 21 September, 2005. It appears that by order dated 21 September, 2005, the advocate for applicants/appellants had not filed written submissions and therefore the second appeal stood dismissed by the said conditional order.

2. Considering the fact that the order dated 21 September, 2005 dismissing the appeal is not on merits but because of the non-compliance of the order and this Court has ample powers to recall such order, the civil application is allowed. Second Appeal is restored to file. Place the second appeal on board for final hearing as it is in the week commencing from 26 February, 2018. The written submissions shall be supplied at the time of hearing of the appeal.

(N.M. Jamdar, J.)