

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3983 OF 2017
IN
FIRST APPEAL NO.117 OF 2012

Khutubuddin Mamtaj Patel	 Applicant
<i>In the matter between</i>	
Khutubuddin Mamtaj Patel	 Appellant
<i>V/s.</i>	
Shakarbi Amin Patan and Ors.	 Respondents

Mr. Umesh H. Pawar for the Applicant.

Mr. Bhushan A. Walimbe for Respondent No.1.

CORAM : **DR. SHALINI PHANSALKAR-JOSHI, J.**

DATE : **17TH OCTOBER, 2018.**

P.C. :

1. Heard Mr. Pawar, learned counsel for the Applicant, and Mr. Walimbe, learned counsel for Respondent No.1.

2. It is submitted that, the notice of this Appeal was served to Respondent No.2 by substituted service by way of paper publication in the local newspaper on 29th September 2011; however, inadvertently, the Appeal came to be dismissed for default against Respondent No.2 for non-service of notice.

3. In view thereof, this Civil Application is allowed. The order of dismissing the Appeal against Respondent No.2 is set aside and as despite service of notice, Respondent No.2 has not appeared, Appeal to proceed ex-parte against Respondent No.2.

4. Appeal be placed for admission as per C.M.I.S. date.

[DR. SHALINI PHANSALKAR-JOSHI, J.]