

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

933 CIVIL APPLICATION NO.1994 OF 2019
IN SA/607/2017 WITH CA/11994/2017 IN SA/607/2017

PANDHARINATH RAMDAS SALVE AND OTHERS
VERSUS
SHIVLAL BANDUSING SINNARE AND OTHERS

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Mr. C.V. Thombre, Advocate for the applicants
Mr. C.R. Thorat, Advocate for the respondent Nos.9A/1 to 9A/4 and 9B
Mr. A.D. Gade, Advocate for the respondent Nos.2 to 8

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06th FEBRUARY, 2019

PER COURT :

1 Present application has been filed to condone the delay caused in filing Civil Application for setting aside the conditional order dated 21.12.2017, thereby dismissing the appeal against respondent No.1.

2 It is stated that in the Second Appeal, which is pending for admission, notices were issued. Except respondent No.1 all are served. The notice issued to respondent No.1 was remarked that the surname of the respondent No.1 differs. It is stated that mistake was committed in the Lower Court itself, when it was directed that proper steps be taken and condition was put that, in case the appellant fails, the appeal would stand dismissed against him. Thereafter, it appears that steps were not taken and therefore, it was treated that the appeal is dismissed against respondent

No.1. It is stated that the applicant is poor person and hence, earlier Advocate had withdrawn the Vakalatnama. Thereafter, he had approached the Legal Aid Sub Committee of this Court and after filing the application legal assistance has been given to him. Thereafter, he had filed the present application. It has caused some delay and therefore it is stated that it is unintentional.

3 It is to be noted that respondent No.1 was not at all served earlier. Under such circumstance, it is necessary that he would be served again. Ground is shown, as this Court has already considered the applicant as an individual person and therefore, legal aid has been given to him. Under such circumstance, the delay is condoned.

4 Now, the applicant is taking steps for serving respondent No.1 and the correct address is given in para No.2 of the application. Hence, the order passed by this Court on 21.12.2017 is hereby recalled.

5 The appeal is restored as against respondent No.1 also.

6 Issue notice to respondent No.1 at the given address in para No.2 of the application, to be made returnable on 20.03.2019.

7 Application accordingly stands disposed of.

(Smt. Vibha Kankanwadi, J.)