

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

947 CIVIL APPLICATION NO.1288 OF 2017
IN SA/1477/2004

SHAKUNTALABAI KEVAL MEHAR MALI DIED LRS ARJUN AND
OTHERS
VERSUS
MARUTI MAHADA MEHAR MALI SINCE DIED LRS SULAN AND
OTHERS

...
Advocate for Applicants : Mr. Santosh S. Jadhavar
...

CORAM : V.L. ACHLIYA, J.

DATED : 29th NOVEMBER, 2019

PER COURT:-

. This application is filed for recall of order dated 17.06.2016, dismissing the appeal against respondents no.3B to 3D on account of failure to take steps on the part of appellant to serve notice to the respondent nos.3B to 3D.

2. Heard the learned counsel for the applicants – appellants. Respondent nos.3B to 3D though served through paper publication, are absent.

3. Learned counsel for the applicants submits that the notice issued to respondents no.3B to 3D were served through respondent no.3A who accepted the notices on their behalf. It is

submitted that the office has raised an objection as to service made to respondent nos.3B to 3D through respondent no.3A, same was treated as improper service. He submits that respondent nos.3A to 3D are residing together and they are related with each other. Respondent no.3A has accepted the notice on behalf of respondent nos.3B to 3D who are her sons. In fact, there was no improper service. In this back-ground, the learned counsel submits that the order passed to dismiss the appeal for want of taking steps to serve respondent nos.3B to 3D deserves to be recalled.

4. On due consideration of the submissions advanced in the light of over all facts of the case, I am of the view that application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause 'B' and 'B1'.

5. Appeal is restored to file as against respondents no.3B to 3D.

6. Issue fresh notice to respondent nos.3B to 3D returnable on 06.12.2019.

7. Civil application is disposed of in above terms.

(V.L. ACHLIYA)
JUDGE