

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

**919 CIVIL APPLICATION NO.5403 OF 2019
IN SA/189/1999**

**PRAKASH @ SHAM SADASHIV MALI
VERSUS
RAMESHWAR VASANTRAO MALI AND OTHERS**

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Mr. V.D. Salunke, Advocate for Applicant
Mr. V.D. Gunale, Advocate for the respondent No.1

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 25th APRIL, 2019

PER COURT :

1 Present application has been filed for restoration of the Second Appeal which was dismissed by order dated 07.02.2019. It is stated that this Court has recorded the absence of learned Advocate of the appellant on that day also and the reasons have been given that he was out of station and it was not possible to argue the matter. The colleague who mentioned the matter could not have argued the matter. It is also stated that the matter was argued substantially before earlier Bench, but then for purpose of calculation of shares the matter was adjourned, but then the Bench changed.

2 The application has been strongly objected stating that the reasons are not proper.

3 Taking into consideration the fact that the inability of the Advocate, so also that the matter was got fixed for final hearing and then it was listed, under that circumstance, the appeal was dismissed. However, since both the parties are ready to make submissions, the order passed on 07.02.2019 is recalled. Application is allowed. The Second Appeal is restored. Place the same for final hearing on 18.06.2019. Civil Application is disposed of.

(Smt. Vibha Kankanwadi, J.)

agd