

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

**3. CIVIL APPLICATION NO.10392 OF 2019
IN SECOND APPEAL NO.599 OF 2018**

RAJENDRA DEVIDASRAO GIRI
VERSUS
AMIR MUSA PATHAN AND OTHERS

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Mr.S.S. Manale, Advocate for the applicant.
Mr.S.N. Rodge, Advocate for respondent no.1.

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CORAM: V.L. ACHLIYA, J.
DATE : 28.08.2019

ORAL ORDER:

The application is filed seeking recall of order dated 11th July, 2019 to the extent of present appellant to dismiss the appeal as against respondent no.3. It is submitted that by common order dated 11.07.2019 passed in group of the matters listed for taking steps to serve the unserved respondents, the conditional order came to be passed to take necessary steps within two weeks and in default to dismiss the appeal/application to the extent of party against whom no steps are taken. On failure to take steps as against respondent no.3, the order has been passed to dismiss the appeal

in default of service to respondent no.3. It is submitted that the service could not be effected on respondent no.3 as he has found to have left the address. The appellant made efforts to find out the address. By making inquiry with the neighbours, it was informed that the respondent no.3 has shifted to MHADA colony, Latur. On making search of address of respondent no.3 in the said colony, the same could not be found. In this background, learned counsel submits that the steps could not be taken within time.

2. Considering the reasons assigned in the application, I am of the view that the application deserves to be allowed to the limited extent to recall order dated 11th July, 2019 to the extent of present appellant. Accordingly, the application is allowed in terms of prayer clause "B". The appellant is directed to take necessary steps within two weeks to serve respondent no.3.

3. In respect of relief claimed by way of prayer clause "C", the appellant is directed to make proper application seeking service through paper publication.

4. The application is disposed of in
above terms.

[V.L. ACHLIYA]
JUDGE

SGA