

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CIVIL APPLICATION NO. 15061 OF 2018
IN SECOND APPEAL NO. 370 OF 2016**

Vishnu Shivnath Shinde & Ors. ...Appellants

Versus

Bhausahab Kissan Kadam & Ors. ...Respondents

.....
Mr. S. M. Gulam Mustafa, Advocate for Appellants.
Mr. N. V. Mande, Advocate for Respondents No. 1 & 2.
.....

CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 11-01-2019.

ORAL ORDER :

01. Heard learned Advocate for the applicant. The learned Advocate appearing for the applicant / original appellant submits that the second appeal was filed challenging the Judgment and decree passed by learned Advoc District Judge, Vaijapur, Dist. Aurangabad in R. C. A. No. 109 of 2012 dated 28.8.2015. Notices were issued to the respondents on 13.8.2018 and was made returnable on 24.9.2018. However, the matter was later on listed on 7.9.2018. Since the appellant failed to supply the spare copies for issuance of notice of respondents. Thereafter, a common order was passed by this Court, thereby two

weeks' time was granted to the appellants to supply the spare copies and the condition was put that in case of failure to supply the copies, the matter would stand dismissed. The appellant failed to give spare copies and therefore, the appeal was treated as disposed of. It is stated that it was due to inadvertence the order could not be complied. The applicant is ready to supply the copies and therefore, prayed for re-calling of order of dismissal of the second appeal.

02. The learned Advocate for the applicants submits that it was his mistake that he had not supplied the copies.

03. Taking into consideration the fact that due to inadvertence copies were not supplied and the fact that notices were not issued to the respondent, yet, it is not necessary to issue notice of this application when applicant / appellant has shown readiness. The order dated 7.9.2018 deserves to be re-called.

04. Hence, the application is hereby allowed. The order of dismissal of second appeal No. 370 of 2016 dated 7.9.2018 for non supply of spare copies, to be served to respondents is hereby re-called. The appeal is restored to the file. Applicant to supply the spare copies to the

respondents within 1 week. After supply of the copies, notices be issued to the respondents to be made returnable after 3 weeks.

05. Stand over to 8.2.2019.

[SMT. VIBHA KANKANWADI]

JUDGE

Dahibhate/-