

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

**921 CIVIL APPLICATION NO.220 OF 2018
IN SA/32/2017**

**DATTU @ DATTATRAYA YESHWANT TODKARI AND OTHERS
VERSUS
SAKHUBAI DIGAMBAR TODKARI AND OTHERS**

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Mr. V.B. Deshmukh, Advocate for the applicants

Mr. S.A. Wakure, Advocate for the respondent Nos.1 to 4

Mr. R.G. Nirmal, Advocate h/f Mr. S.S. Gangakhedkar, Advocate for the
respondent No.10

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CORAM : SMT. VIBHA KANKANWADI,J.

DATE : 28th FEBRUARY, 2019

PER COURT :

1 Present application has been filed for getting delay of 22 days in preferring application for recalling of the order dated 22.09.2017 and restoration of the Second Appeal.

2 Heard both sides. It appears that the appeal came to be dismissed for non supply of addresses of respondent Nos.5 and 9. It is stated that the applicants had given the correct addresses, which were supplied by those respondents before the Courts below. However, now, the reports had

given that they are not residing at the said address. They were in the process of collecting the address, but in the meantime, since they could not supply the correct address, the Second Appeal came to be dismissed. The delay is unintentional. Taking into consideration the fact that as against other respondents prompt steps were taken and the fact that though correct address as per the record of the Courts below were given, respondent Nos.5 and 9 could not be served. It is a good ground for condoning the delay. Hence, delay is condoned. Now, applicants are taking steps as against respondent Nos.5 and 9 by preferring another application for issuance of notice to them through paper publication. Under such circumstance, the order dated 22.09.2017 in Second Appeal No.32 of 2017 is hereby recalled. The Second Appeal is restored to its original position and separate order is passed below Civil Application No.221 of 2018.

(Smt. Vibha Kankanwadi, J.)

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