

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION**

**CIVIL APPLICATION NO. 1246 OF 2018
IN
SECOND APPEAL NO. 276 OF 2015**

Smt.Kamala Narayan Swami & Anr.	...Appellants
vs.	
Rajendra Prasad Nishad & Anr.	...Respondents

Mr.Siddharth P. Munghate for Appellant.
Mr.Yogesh Dabke, AGP for Respondent No.2.

CORAM : S.C. GUPTE, J.

DATE : 2 DECEMBER 2019

P.C. :

This civil application is for recall of a dismissal order passed by this court on the second appeal for want of prosecution. The civil application has been duly served, both privately and through court, on Respondent No.1, who is the main contesting Respondent. There is an affidavit of service (private service) as well as a report of service (court service). None appeared for the Respondent on the earlier occasions. There is no reply to the civil application.

2 For the reasons stated in this civil application, the delay of 141 days in taking out the civil application is condoned and order of dismissal dated 15 November 2017 is recalled and set aside and the second appeal is restored to file. The stay granted earlier by this court in the second appeal is also restored. The second appeal to come up on board for admission on 6 January 2020. The Appellant is permitted to amend the body of the memo of appeal by incorporating further questions of law in her challenge to the

impugned order. Amendment to be carried out within two weeks.

3 The civil application is disposed of.

(S.C. GUPTE, J.)

Sanskruti Digitally signed
A. by Sanskruti A.
Thakur Thakur
 Date: 2019.12.06
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