

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

939 CIVIL APPLICATION NO.80 OF 2020
IN RC/1500/2014 with R.C. No. 1500 of 2014

VISHWANATH GOPAL BADGIRE (DIED) LRS GOPAL VISHWANATH
BADGIRE

VERSUS

THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicant : Sakolkar Virendra T.
AGP for Respondents: Mr. S. R. Yadav, Lonikar

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**CORAM : S. G. DIGE, J.
DATE : 28.06.2022**

PER COURT :-

Heard learned counsel for the applicant and learned AGP for respondent No.1. Though respondent No.2 is served none appeared for respondent No.2.

2. Learned counsel for the applicants submits that applicants have challenged the Judgment and award passed by learned C.J.S.D. Ahmedpur in LAR No. 1769 of 2001. The civil application No. 2841 of 2012 for condonation of delay for filing first appeal was listed on 1st September, 2014 however, none appeared for the appellant as the learned counsel could not mark the same. This Court was pleased to list the said civil application on 22nd September, 2014. However, on that day also

the learned counsel for the applicant/appellant was not present. This Court by order dated 22nd September, 2014 dismissed the said civil application in default. As a consequential thereof, the registration of first appeal is also rejected vide order dated 22 September, 2014. The learned counsel for the applicants submits that applicants should not be suffered for the mistake of Advocate. Hence requested to recall the order dated 22 September, 2014.

2. Learned A.G.P strongly objected for restoration of the matter on the ground that no specific reasons are mentioned as well as twice opportunity was given to the applicants to defend their case, however, none appeared for the applicants.

3. Heard both the learned counsel. Perused the order dated 22nd September, 2014.

4. For the reasons stated in the application and as the learned counsel inadvertently could not mark the matter on 1st September, 2014, and 22nd September, 2014, therefore, the learned counsel remained absent, I inclined to recall the order and pass the following order :

ORDER

- (I) Application is allowed.
- (II) The order dated 22nd September, 2014 is recalled. The Civil Application for condonation of delay and the First Appeal stand restored to its original position.
- (iii) Learned counsel for the applicants shall pay the cost of Rs. 5,000/- (Five Thousand) to the Dean, Cancer Hospital, Aurangabad.
- (iv) Learned counsel for the applicant submits that the file of this appeal is destroyed. He would take proper steps in that regard.
- (v) Civil Application is disposed of.

**(S.G. DIGE,)
JUDGE**

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