

Arjun

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

**INTERIM APPLICATION NO.10475 OF 2022
IN
SECOND APPEAL NO.833 OF 2003**

Shahaji Babaso Jadhav ...Applicant

V/s.

Ekhnath Dnyanu Babar & Ors. ...Respondents

Mr. Kuldeep S. Patil, for the Applicant.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 31st JANUARY, 2023**

P.C.:

- 1.** Heard Mr. Kuldeep S. Patil, learned counsel appearing for the Applicant.
- 2.** This Interim Application is taken out seeking recall of order dated 16th January, 2009 passed in Second Appeal No.833 of 2003.
- 3.** By order dated 16th January, 2009 passed in Second Appeal, conditional order was passed for dismissal of the Second Appeal if, no steps are taken to serve upon Respondent No.5.
- 4.** Learned counsel appearing for the Applicant states

that, Respondent No.5 has been served and, accordingly, affidavit of service dated November, 2007 was filed along with acknowledgment of Respondent No.5. He states that, order dated 16th January, 2019 was passed as the service of Respondent No.5 was not brought to the notice of the Hon'ble Court.

5. Therefore, the Interim Application No.10475 of 2022 is allowed in terms of prayer clauses (a) and (b).

6. The Second Appeal is restored to file.

7. The Interim Application is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)