

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

**INTERIM APPLICATION NO. 13615 OF 2024
IN
SECOND APPEAL NO. 239 OF 1993**

Pandurang Gangaram Jadhav
V/s.
Laxman Hari Babar and ors.

.... Applicant

.... Respondents

Mr. P.J. Thorat a/w. Ms. Aditi Naikare and Ms. Yogita Tembe i/b.
Mr. P.B. Gujar for the Applicant.
Mr. Sandeep Dhuri for Respondent Nos.1 and 3.

CORAM : SHYAM C. CHANDAK, J.

DATED : 18th OCTOBER, 2024

P.C. :-

. Present Application is seeking for restoration of the aforesaid Second Appeal which came to be dismissed for want of prosecution vide Order dated 05th July, 2024.

2) Learned counsel for the Applicant/Appellant submits that, on 05th July, 2024 the aforesaid Second Appeal was listed under the caption of admission. However, the learned Advocate on record was not prepared to advance the final hearing arguments.

3) The Order of dismissal noted that, the Appeal has been pending since 1993. On 19th July, 2023 learned counsel for Respondent Nos.1 and 3(a) moved an Application for fixing the date of hearing on the ground that, the parties are senior citizens. At that time, Ms. Kambli, learned Advocate for the Appellant has given her 'no objection' if the

Second Appeal is placed for final hearing. Accordingly, the Second Appeal was listed for final hearing on the board in the week commencing from 7th August, 2023.

4) However, the learned counsel for Respondent Nos.1 and 3(a) states that, one last opportunity may be extended to the Appellant to argue the matter, finally, but subject to costs. In view thereof, following Order :-

(a) Interim Application No.13615 of 2024 is allowed subject to payment of cost of Rs.10,000/-.

(b) The cost be paid to Kirtikar Law Library within a period of two weeks from today.

(c) The aforesaid Second Appeal is restored to file subject to payment of the aforesaid cost.

5) Interim Application stands disposed of in above terms.

6) By consent, the aforesaid Second Appeal be listed under the caption 'for final hearing' on **22nd November, 2024**.

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(SHYAM C. CHANDAK, J.)