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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 13326 OF 2024
IN
SECOND APPEAL NO. 281 OF 1992**

Sarjerao Nivrutti Rasal
Since Decd. Through LRs

.....Applicants

Vs.

The State of Maharashtra thr. Collector
and ors

.....Respondents

Mr. Vaibhav Gaikwad Advocate for the applicants
Mr. D. J. Haldnkar AGP for the respondent-State

CORAM : GAURI GODSE, J.

DATE : 22nd NOVEMBER 2024

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ORDER:

1. This application is for restoration of the second appeal with a prayer to recall the order dated 15th September 2023.
2. Learned counsel for the applicants submits that advocate for the applicants were unaware about the listing of the second appeal. He submits that it was not listed before the regular assignment and inadvertently advocate for the applicants could not notice the listing of the second appeal. He further submits that immediately after the

applicants' advocate learnt about the order, immediate steps are taken to file the application. He thus submits that delay has occurred only because of applicants and their advocates were unaware about the listing of the second appeal. He thus submits that delay in filing the application be condoned and the second appeal be restored.

3. Learned AGP opposes the application on the ground that vague reasons are given. He submits that explanation given in the application for condonation of delay is not justifiable.

4. I have perused the application.

5. It is not in dispute that the second appeal was not listed before the regular assignment. Hence, the reasons given in the application are justifiable that inadvertently the applicants' advocate missed to notice the listing of the second appeal. The reasons stated in the application are acceptable. Hence, for the reasons stated in the application, delay is condoned and the application is allowed in terms of prayer clause (c).

6. In view of the restoration of the second appeal, interim order passed in the second appeal is also restored.

7. Office remark shows that second appeal papers are under

search.

8. Learned advocate for the appellants is permitted to supply copy of the second appeal and pending applications, if any, within two weeks from today.

9. In the event papers are not traceable within one week, office is directed to accept the copies supplied by the learned advocate for the appellants and reconstruct the file.

10. List the second appeal under the caption for 'Directions' on 13th December 2024.

[GAURI GODSE, J.]