

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1946 OF 2016
IN
SECOND APPEAL NO.582 OF 2015
WITH
CIVIL APPLICATION NO.1289 OF 2015

Prakash Pandurang Yadav

...Applicant-
Appellant

Versus

Jagannath Yashwant Kachari @ Humane and Ors.

...Respondents

Mr. Rushikesh C. Barge for the Applicant-Appellant.

Ms. Suvarna Yadav i/b Mr. Shrikant Yadav for Respondent No.1.

CORAM : SHARMILA U. DESHMUKH, J.
DATE : 16th FEBRUARY, 2024

P. C. :

1. Civil Application has been filed seeking recall of the order dated 5th August 2016 recording that appeal has already been dismissed as against the unserved respondents by reason of the self operative order dated 24th June 2016 and for condonation of delay of 65 days.
2. Mr. Barge, learned counsel appearing for the applicant submits that by order dated 24th June 2016 this Court had passed order directing the applicant to take appropriate steps against the unserved respondents within a period of 6 weeks from today failing which appeal to stand dismissed against the unserved respondents. Learned counsel

submits that as per the order appropriate steps were taken to serve the unserved respondents within stipulated period by sending the notice by registered post. However the packets were returned unserved. He submits that on 5th August 2016 he could not remain present and the order came to be passed.

3. Ms. Yadav, learned counsel appearing for respondent No.1 has no serious opposition to the restoration of the Second Appeal.

4. For the reasons stated in the Application, delay of 65 days is condoned and the Civil Application is allowed in terms of prayer clause (a)

5. Second Appeal is restored to file.

(SHARMILA U. DESHMUKH, J.)