

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 1918 OF 2024
IN
SECOND APPEAL NO. 138 OF 2019**

Laxmibai Balaram SamjiskarApplicant

Vs.

Shakuntala Vishnu KadamRespondent

**WITH
INTERIM APPLICATION NO. 9111 OF 2024
IN
SECOND APPEAL NO. 138 OF 2019**

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Balaram Bhiku SamjiskarApplicant
(deceased)

Vs.

Shakuntala Vishnu KadamRespondent

Mr. Afsar Ansari i/b Mr. Vivek Patil associates for the applicant
Mr. S. R. Chopade i/b Mr. Agarkar Ashish for respondent no. 1

CORAM : GAURI GODSE, J.

DATE : 9th SEPTEMBER 2024

ORDER:

1. This application is for recalling the order dated 2nd February 2024

dismissing the second appeal as abated.

2. Learned counsel for the applicant submits that on the date when the second appeal was dismissed as abated, Interim Application No. 9111 of 2023 was already filed. He submits that the application for bringing on record names of heirs and legal representatives of deceased sole appellant was filed on 14th January 2023. He further submits that on 4th February 2024, advocate was unable to appear and point out about filing of the application.

3. Learned counsel for the applicant therefore requests to recall the order dated 2nd February 2024 and hear the Interim Application for bringing on record names of heirs and legal representatives of the appellant. Though time was granted to the respondents to file affidavit-in-reply, no reply is filed till date to oppose the application.

4. For the reasons stated in the application, order dated 2nd February 2024 is recalled. Interim Application is allowed and the second appeal is restored.

INTERIM APPLICATION NO. 9111 OF 2023:

5. This application is for bringing on record names of heirs and legal representatives of sole deceased appellant. There is delay of 287

days in filing the application.

6. Issue notice to respondents, returnable on 18th November 2024.
7. Mr. S. R. Chopade waives notice for respondent no. 1.
8. In addition to Court notice, learned advocate for the applicant is directed to serve the remaining respondents by private notice and file affidavit of service before the next date.
9. Ad-interim relief already granted to continue till the next date.

[GAURI GODSE, J.]