



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.9209 OF 2024
IN
FIRST APPEAL NO.180 OF 2013
[No papers]

Sunil Shantaram Nagare	... Applicant.
<u>In the matter between:</u>	
Sunil Shantaram Nagare	... Appellant.
<u>Versus</u>	
Jayantilal Jethmal Kothari	... Respondent.

Mr. Vedant D. Bende, for the Applicant-Appellant.
Mr. Kantilal H. Kanojia a/w. Ms. Jyoti A. Kanojia, for Respondent.

Coram : Sharmila U. Deshmukh, J.
Date : August 08, 2024

P. C. :

1. Not on board. Upon mentioning, taken on production board.
2. Registry has not placed the papers before the Court.
3. Interim Application has been preferred seeking recall of the order dated 17th October, 2013 for restoring the Interim Application to restore the First Appeal, which was dismissed for default on 10th October, 2019. Apart from the fact that despite the dismissal of the First Appeal for non-prosecution, no care was taken to ensure that the Interim Application No.2589 of 2019 which was for restoration of the

First Appeal is duly circulated and the First Appeal be restored, the negligence is writ large as even Interim Application No.2589 of 2019 has been dismissed for default.

4. Learned counsel appearing for the Applicant submits that there has been change of Advocate and thereafter, the present Interim Application has been filed. The fact remains that even the present Interim Application has been filed in the month of April, 2024 and no efforts were taken to circulate the Interim Application. The execution proceedings are fixed on 12th August, 2024 and the matter has been moved urgently. Considering the conduct of the Applicant, I am not inclined to grant any interim stay in the present matter.

5. List on **13th August, 2024.**

[Sharmila U. Deshmukh, J.]