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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 12865 OF 2024
IN
CIVIL APPLICATION NO. 13 OF 2024
IN
SECOND APPEAL NO. 479 OF 2014**

Smt. Shalini Jairam Naik ... Applicant/Appellant
Vs.

Shri Vishram Shiva Naik and Others ... Respondents

Mr. Abhay Parab a/w. Ms. Nikhita Ghosalkar for the
Applicant/Appellant.

Mr. G. H. Keluskar for Respondent No.1.

CORAM : GAURI GODSE, J.

DATE : 15th JANUARY 2025

ORDER :

1. This application is for recalling order dated 3rd May 2024 and restoration of the Civil Application No. 13 of 2024. Civil Application No. 13 of 2024 is for recalling order dated 2nd July 2018. By order dated 2nd July 2018 the second appeal was dismissed in default.

2. By order dated 5th April 2024 this court issued notice to the respondents. Copies were not supplied pursuant to the order, hence notices were not issued. Hence, by order dated 3rd May 2024 conditional time of one week was granted to supply copies. It was directed that if copies were supplied office should issue notice. The

said order was not complied, hence the Civil Application No.13 of 2024 stood dismissed.

3. By the present application a prayer is therefore made to recall the conditional order dated 3rd May 2024. The conditional order stood operative as spare copies were not supplied. The application is bereft of any explanation for non-compliance of the conditional order dated 3rd May 2024. Perusal of the application indicates that it is filed in a casual manner. There is no regard to the orders passed by this court directing to supply copies for compliance of the earlier orders.

4. Supplying copies and/or issuing notices is responsibility of the Advocate. Hence, for the default of the Advocate litigants should not suffer. Hence, in the interest of justice I find it appropriate to allow the application subject to the Advocate for the appellant paying cost for the default.

5. For the reasons stated above the following order is passed.

(i) Interim Application No. 12865 of 2024 is allowed in terms of prayer clause (a) subject to the learned Advocate for the appellant paying cost of Rs.25,000/- within two weeks in the following account:

Account Name : Advocate Association of Western India Generation Next

Account No. : 000110110007807

Bank Name : Bank of India, Branch Name : Mumbai Main

IFSC : BKID00000001

(ii) Prayer clause (b) of the interim application is rejected at this stage and shall be considered when the Civil Application No. 13 of 2024 is heard.

(iii) Learned Advocate for the appellant shall supply copies as directed by order dated 3rd May 2024 within two weeks from today, failing which the present application will stand dismissed without further reference to the court.

6. If the aforesaid directions are complied within time granted, list the Civil Application No. 13 of 2024 for orders on 12th February 2025.

[GAURI GODSE, J.]