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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 13543 OF 2024
IN
SECOND APPEAL NO. 35 OF 2011**

Krishna Dattu Sutar @ Lohar and orsApplicants

Vs.

Jotiba Krishna DhakolkarRespondent

None for the applicants

Mr. Aditya Deolekar i/b Trsna Legal for respondent

CORAM : GAURI GODSE, J.

DATE : 9th MAY 2025

ORDER:

1. This interim application is for restoration of the second appeal which was dismissed on 21st March 2024. On 28th January 2025, none had appeared for the applicants. Hence, the application was directed to be listed on 10th March 2025 for dismissal. On 10th March 2025, the application was adjourned as there was no report whether the respondent was served in the second appeal. The application was directed to be listed on 22nd April 2025. On 22nd April 2025, the matter was again adjourned and the learned advocate for the appellant was permitted to give private notice to the advocate who had appeared for

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the respondent in the second appeal. The application was directed to be listed today.

2. Though the application is for restoration of the second appeal which was dismissed for non prosecution, learned advocate for the applicants has not bothered to appear today.

3. I am informed that the learned Registrar (Judicial-I) has granted leave note. I have perused the leave note dated 2nd May 2025. A copy of the leave note is taken on record. The remark on the leave note states that it is granted subject to provision of Chapter XXXII, Schedule VII Rule 7-A(1) of The Bombay High Court Appellate Side Rules. Leave note is therefore granted subject to clause (1) of Rule 7-A. In the present case after hearing the learned Advocate for the applicant, the application was specifically directed to be listed on 9th May 2025. Hence, I see no justifiable reason for the learned Advocate for the applicant to remain absent.

4. When the matters are specifically directed to be listed after hearing the advocates, such practice of wasting Court's time and the time of the staff by filing leave note needs to be deprecated. Apart from wasting the Court's time and the time of the staff, such practice of filing

leave note by suppressing the earlier orders passed, would amount to defeating the directions issued by the court. Hence, copy of this order be forwarded to the learned Registrar (Judicial-I) for taking corrective action. Leave note filed by the Advocate should contain particulars of the earlier orders passed by the court as contemplated under clause (1) of Rule 7-A. Before granting leave note, it would be necessary to verify the earlier directions, if any, passed by the court, as contemplated under clause (2) of Rule 7-A.

5. The party cannot be made to suffer due to mistake of advocate. Hence, this application is not dismissed today.

6. List the application for dismissal on 2nd July 2025.

7. It is clarified that if none appears for the applicants on the next date, the application will be dismissed for non prosecution.

[GAURI GODSE, J.]