

Vs.

Smt. Parubai Abaso Barkade and Ors. ... Respondents

Mr. Abhijit B. Kadam a/w. Ms. Sonali Sase and Mr. Ashish Chavan
for the Applicants.

Mr. Swapnil R. Vighne i/b. Mr. Milind Deshmukh for Respondent
No.1.

CORAM : GAURI GODSE, J.

DATE : 4th FEBRUARY 2025

ORDER :

1. This application is for restoration of the second appeal which was dismissed in default on 14th November 2024. Learned counsel for the applicants seeks leave to amend the application to correct the title. Leave granted. Amendment to be carried out forthwith in the court.

2. Learned counsel for the applicants submits that when the second appeal was dismissed in default, he was held up in another court and hence was unable to appear when the matter was called.

3. Learned counsel appearing for respondent no.1 i.e. original plaintiff – contesting respondent opposes restoration on the ground that even on earlier occasion the appeal was dismissed and restored. Though served in the second appeal, the remaining respondents never appeared in the appeal. Hence notice of this application is not necessary to the remaining respondents.

4. In the facts and circumstances of the case the application is allowed in terms of prayer clause (a) on a condition that the learned Advocate for the appellants shall workout the second appeal as and when it is called out on the weekly final hearing board.

5. It is clarified that if on the next occasion none appears for the appellants when the appeal is called out for hearing, the appeal will be dismissed for non-prosecution.

6. Office is directed to add the second appeal to the weekly final hearing board commencing from 3rd March 2025.

7. Interim relief already operating in the second appeal is also restored. Office is directed to place copy of this order of the second appeal.

[GAURI GODSE, J.]