

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CIVIL APPELLATE JURISDICTION  
INTERIM APPLICATION NO.9039 OF 2025  
IN  
SECOND APPEAL NO.706 OF 2018**

Surekha Raghunath Basugade .....Applicant

**In the Matter in Between:**

Shakuntala Bhimrao Nikam,  
Since Deceased, Through LRs. ....Appellants

Vs.

Raghunath Ganpati Basugade,  
Since Deceased Through LRs. & Ors. ....Respondents

Mr. Sudhanva S. Bedekar (Through VC), for the Applicant.

Mr. Nikhil Pawar with Ms. Manasi Patil, for the Respondent Nos.1(b) & 1(c)/Original Appellant Nos.1B & 1C.

Mr. Abhishek Ingale (Through VC) with Mr. Pankaj Deshmukhk, for the Respondent No.3.

**CORAM : MRS. VRUSHALI V. JOSHI, J.**

**DATED : 27<sup>th</sup> MARCH 2026**

**PC.:-**

1. The Applicant has filed the present application seeking recall of the Judgment dated 15<sup>th</sup> June 2023 passed by this Court in Second Appeal No. 706 of 2018, and for a direction to grant a fresh hearing of the said appeal.
2. The Applicant is the original Respondent No. 1(b). It is the contention of the Applicant that the Judgment dated 15<sup>th</sup> June 2023 was passed *ex parte*. The Applicant was not duly served with notice of the proceedings. It is further submitted that the nomenclature of Respondent No.1(a) has been incorrectly mentioned.

3. The Applicant, being one of the legal heirs of the original Defendant No. 1, states that the suit filed by the Plaintiff was dismissed by the Trial Court. The appeal preferred by the Plaintiff was also dismissed by the Appellate Court. Thereafter, the Plaintiff filed the present Second Appeal in the year 2016. The concurrent findings of both the Courts below were in favour of the present Applicant.

4. However, this Court allowed the Second Appeal by passing an *ex parte* judgment without proper service upon the Applicant, and at an incorrect address. Hence, the Applicant prays that the Judgment dated 15<sup>th</sup> June 2023 be set aside and the Second Appeal be reheard after giving an opportunity of hearing to the Applicant.

5. The learned counsel for the Applicant has pointed out that, in the cause title of the Second Appeal, the address of the Applicant is incorrectly shown as 'Khanbag, Jamdade Galli, Sangli'. It is further submitted that the name of the Applicant's mother is wrongly mentioned as "Draupadi Raghunath Shinde" whereas her correct name is "Draupadi Raghunath Basugade."

6. It is the case of the Applicant that she received notice only in the execution proceedings, which was served at her correct address, i.e., 'Near Hanuman Mandir, Bedag, Taluka Miraj, District Sangli' and that such address is different from the one mentioned in the Second Appeal.

7. The Respondent No. 3, being the subsequent purchaser of the suit property, has supported the present application.

8. In view of these discrepancies, it appears that the contention of the Applicant that she was not duly served is substantiated. The *ex parte* Judgment, thus, appears to have been passed without proper service at the correct address and without affording an opportunity of hearing to the Applicant.

9. Hence, the Judgment passed in Second Appeal is set aside and the appeal is restored to its original file.

10. The Application is accordingly disposed of.

(MRS. VRUSHALI V. JOSHI, J.)