



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

909 CIVIL APPLICATION NO. 10520 OF 2026  
IN X-OBJST/10843/1980

Ammenabi Mir Hussain Khan Died Through Lrs Mahmoodabi And  
Others

VERSUS

Dattu Santu Buddha Died Through Lrs Sudam Dattu Salve And  
Others

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Advocate for Applicant : Mr. Faij Khan

Advocate for Respondent Nos. 2b, 2c To 2f, 2ha In SA : Mr. R.H.  
Wagh

Advocate for appellant Nos. 1a, 2a To 2e, 3a To 3e in SA : Mrs.  
Preeti Wankhede

Advocate for Respondent No.2b in SA : Mr. A.R. Syed

Advocate for Respondent No. 2/a/a in SA : Mr. Shaikh Mujtaba  
Gulam Mustafa

Advocate for Respondent Nos. 1/2/h/c in SA: Ms. Sangita Desarda

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WITH

SECOND APPEAL NO. 406 OF 1980

WITH

CIVIL APPLICATION NO. 8574 OF 2022

**CORAM : SANJAY A. DESHMUKH, J.**

**DATED : 11<sup>th</sup> SEPTEMBER, 2026**

**PER COURT :-**

1. The civil application No. 10520 of 2026 is filed for condonation of delay of 6326 days caused in filing the application seeking restoration of cross objection stamp No. 10843 of 1980 and for setting aside the order dated 15.04.2009.

2. Perused the application. Heard learned advocates for both

sides. Considering the fact that the appeal was dismissed on 6.7.2006 and therefore, learned advocate for the cross objectors submitted that the since the appeal was dismissed for want of prosecution, learned advocate for the respondents-cross objectors withdrawn that cross objection but subsequently the appeal is again restored. Learned advocate for the applicant submitted that the cross objection is not dismissed in default but only because of the mistake of the advocate in not filing the application for restoration of the cross objection immediately his cross objection cannot be dismissed on account of huge delay. He submitted that the interest of justice is required to be protected by restoring the cross objection. He lastly prayed to allow the application.

3. Learned advocate for the appellant strongly opposed the application and submitted that the delay is not properly explained. There are no sufficient grounds to condone the delay. On the basis of the cross objection the substantial questions of law is not formed. At the fag end of the arguments, this application has been filed without any justification to restore the cross objection. It is submitted that the application deserves to be rejected, as there is no sufficient reason.

4. On perusal of the application and after hearing the

arguments of learned advocates for the respective parties, it is crystal clear that the cross objection filed by the respondent was withdrawn because the appeal was dismissed. It is not that cross objection was dismissed for non compliance of the office objection or absence of the learned advocate for the applicant. The appeal is filed in the year 1980. The litigation started in the year 1970. To decide the lis finally on merits and in the interest of justice, on the basis of the law laid down by the Hon'ble Supreme Court in the case of ***M.D.A. Chaudhary vs. Kartar Chand and Others, MANU/SC/0877/2025*** the application deserves to be allowed. The application is accordingly allowed in terms of prayer clauses "B" and "C". Cross objection is restored to its original position.

5. Learned advocate for the appellant and the respondents are heard, except Mr. A.R. Vaidya, learned advocate for respondent.

6. Stand over to 21.09.2026 at 10.30 a.m.

**(SANJAY A. DESHMUKH, J.)**

rlj/