

AGK

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

**INTERIM APPLICATION NO.3240 OF 2022
IN
FIRST APPEAL NO.1085 OF 2010**

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Vasant Gangaram Pedamkar

... Applicant

V/s.

Harishchandra Gangaram Pedamkar,
(deceased), through L.R.s 1A) A.A.

Dalvi nee A.H. Pedamkar & Anr.

... Respondents

Mr. M.S. Menon for the applicant.

Mr. Rajesh Jain with Mr. Rohit Jain and Ms. Neha Doshi
i/by Legal Juris for the respondents.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 13, 2023

RC.:

1. The applicant has filed present interim application seeking restoration of the first appeal which was dismissed for non-prosecution. The interim application has been opposed by the respondents mainly on the ground that pendency of this first appeal is taken benefit of by the applicant by submitting before the Trial Court in another proceedings that pendency of the present first appeal precludes the Court from proceeding with another proceedings.

2. For the reasons stated therein, the interim application is allowed in terms of prayer clause (a).

3. However, it is made clear that pendency of present first appeal shall not preclude the Trial Court from proceeding on merits in Suit No.2872 of 2006.

4. The interim application is disposed of accordingly. No costs.

(AMIT BORKAR, J.)