

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14099 OF 2023
IN
FIRST APPEAL NO.1022 OF 1997

Smt. Suriya Mukhi wd/O Prithvipal ... Applicants/Appellants
Sonal and Ors.

V/s.

Shri Jagannath Lakhan Sonar and ... Respondents
Anr.

Ms. Michelle J. Almeida I.by C.K. Legal, for the applicant in
IA/14099/2023

Mr. R.R. Sharma with Surya Das, for the respondent nos. 1a to 1e.

CORAM : KISHORE C. SANT, J.

DATE : 22ND APRIL 2024.

PC:

1. This application is moved for condonation of delay and for recalling of the order dated 5th August 2015 passed by the learned Registrar-II and to restore the First Appeal No. 1022 of 1997. There is a delay of more than 10 years. The only reason assigned is that the applicant came to know about the abatement order only when they received notices in execution proceedings. Thereafter, they immediately engaged their lawyer. It is thereafter, they came to know that legal heirs of deceased are required to be brought on record and

thereafter got knowledge that the matter is already abated by order dated 5th August 2015.

2. For the reasons stated above, this Court is of the opinion that the steps could not be taken due to lack of knowledge of the order of abatement. Considering that the delay needs to be condoned. Hence, the following order:

ORDER

- i) Application is allowed.
 - ii) Delay stands condoned.
 - iii) Order dated 15th August 2015 is hereby recalled.
 - iv) First Appeal No. 1022 of 1997 stands restored, subject to payment of costs of Rs. 25,000/- within eight weeks from today in the office of this Court. After cost is deposited the respondent shall be entitled to withdraw the amount without making any formal application.
3. The application stands disposed of.

(KISHORE C. SANT, J)