

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

**INTERIM APPLICATION NO. 7116 OF 2024
IN
SECOND APPEAL NO. 636 OF 1998**

Mangesh Narayan Wagh and ors.
Applicants

....

V/s.

The State of Maharashtra and ors.

.... Respondents

Ms. Prerana Buggarapu a/w. Ms. Mrudula Gargate i/b. Ms. Smita Gaidhani
for the Applicants.

Ms. Shilpa Talhar, AGP for Respondent Nos.1 and 2.

Mr. M.I. Patil for Respondent No.3.

CORAM : SHYAM C. CHANDAK, J.

DATED : 02nd AUGUST, 2024

P.C. :-

- 1) Present Application is filed for restoration of Second Appeal No.636 of 1998 which was dismissed for non-prosecution by Order dated 14th February, 2024.
- 2) Heard learned Advocate for the Applicants and learned Advocates for Respondent Nos.1 to 3 respectively. Perused the Application.
- 3) Learned Advocate for the Applicants submitted that due to unavoidable reasons, the Advocate for the Applicants/Appellants could not remain present on 14th February, 2024. Consequently, the Appeal was dismissed. She submitted that, the Appeal was admitted and thereafter ad-interim relief was granted in favour of the Appellants. She submits that, the

Applicants/Appellants have good case on merits. She submitted that, the Applicants are ready to proceed with the Appeal without seeking any adjournment. Therefore, the Appeal may be restored in the interest of justice.

4) Learned counsel for Respondent Nos.1 to 3 have opposed the Application strongly.

5) Considering the submissions made by the learned Advocate for the Applicants, the Applicants deserve an opportunity of final hearing, as a last chance. However, looking at the tendency of seeking adjournments, cost should be imposed to prevent the Applicants from seeking unwanted adjournments in the future. Hence, the following order :-

(a) Interim Application No.7116 of 2024 is allowed subject to payment of cost of Rs.10,000/-. Cost be paid to Kirtikar Law Library within a period of two weeks from the date of uploading of the Order.

(b) If the cost is not paid within the stipulated time, the Appeal shall stand dismissed without further reference to this Court.

6) Interim Application stands disposed of in above terms.

(SHYAM C. CHANDAK, J.)