

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 11269 OF 2024**

IN

SECOND APPEAL NO. 688 OF 2018

Ashok Ramchandra Kutwal ... Appellant

vs.

Shantabai Laxlnan Kutwal ... Respondent

WITH

SECOND APPEAL NO. 455 OF 2023

WITH

CIVIL APPLICATION NO. 1570 OF 2018

IN

SECOND APPEAL NO. 455 OF 2023

Archana Prabhakar Kutwal and anr. ... Appellant

vs.

Shantabai Laxlnan Kutwal ... Respondent

Ms. Mamta Pandey i/b Sushant Prabhune for the Applicant.

Mr. G. N. Salunke a/w D. N. Gondhali for Respondent Nos. 1 and 2.

Mr. Pravin Dabade a/w Mahesh Rawool for Respondent Nos. 4 to 6
and for the Appellant in SA/455/2023.

Mr. Atharva R. B. i/b Vaibhav R. Gaikwad for Respondent No. 7A in
SA/455/2023.

CORAM : GAURI GODSE, J.

DATED : 26th AUGUST 2024

ORDER:

INTERIM APPLICATION NO. 11269 OF 2024:

1. This application is for recalling order dated 2nd February 2024 and praying for restoration of the second appeal. By the said order second appeal was dismissed for non prosecution as none had appeared for the appellant. Hence, learned counsel for the appellant was called upon to argue the second appeal for admission. However, she submits that the Advocate on record is unavailable due to some medical emergency in his family.

2. On the last occasion, interim protection was granted as there was possession warrant issued.

3. Learned counsel appearing for the respondent opposes grant of an adjournment on the ground that the application for restoration was filed only to stall the execution.

4. It appears that the applicant is not interested in arguing the second appeal and has filed restoration application only to stall the execution proceedings.

5. However since, submission is made that the Advocate on record is held up due to some medical emergency in the family, by way of last chance, this application is adjourned to 4th September 2024.

6. To be listed under the caption “for dismissal”.
7. It is made clear that if the second appeal is not argued on merits on the next date, the application for restoration will be dismissed.
8. Interim protection already granted to continue till the next date.

(GAURI GODSE, J.)