



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11254 OF 2023

SHRI. SAVALU ZIPARU SONAR (DECEASED) THROUGH L.RS.

VERSUS

SHRI. DHUDKU ZIPARU SONAR (DECEASED) THROUGH L.RS.

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Mr. Yogesh B. Bolkar, Advocate for the Petitioner

Mr. Dhananjay A. Mane, Advocate for Respondent No. 1 To 5

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 19th DECEMBER, 2025

PER COURT :

1. Heard learned counsel for the respective parties.
2. By way of present petition, the petitioner assails the order dated 05/07/2023 passed by learned District Judge-3, Dhule, below Exhibit-1 in Civil Misc. Application No.48/2022, whereby the application filed by petitioner for restoration of his appeal came to be rejected.
3. After going through the impugned order and record placed before this Court, it reveals that the regular civil appeal filed by the petitioner was dismissed on 03/11/2016. Thereafter the application for restoration along with the application for condonation of delay in filing application for restoration was filed by the petitioner. The appellate Court vide order dated 21/03/2022 allowed the application for condonation of delay by imposing costs of Rs.500/-. However, the application for restoration came to be rejected. The appellate Court recorded finding that as per the

Roznama for so many dates the applicant remained absent and no steps were taken for bringing legal heirs of sole respondent on record. By pointing out that it is obligatory upon the applicant to show sufficient cause due to which he remained absent for so many dates of hearing and referring the conduct of petitioner the application for restoration came to be rejected.

4. The issue in the suit pertains to the execution proceedings and it is for the executing Court to decide the matter on it's own merits. Since the application is rejected on the technical ground and as the Court is supposed to take liberal approach in the restoration application, I am inclined to allow the petition.

5. Writ petition is, therefore, allowed. Order dated 05/07/2023 passed by learned District Judge-3, Dhule, below Exhibit-1 in Civil Misc. Application No.48/2022, is quashed and set aside, subject to the costs of Rs.10,000/-.

6. After the petitioner deposits the said amount, it shall be transferred to the Cancer Hospital, Aurangabad.

7. The Appellate Court is directed to decide the proceedings within a period of six months from today.

(SIDDHESHWAR S. THOMBRE, J.)