



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

**30 CIVIL APPLICATION NO. 1742 OF 2024  
IN RC/102/2019**

**MOHIUDDIN HUSSIOUDDIN LRS BILAQUESBEGUM AND OTHERS  
....Applicants**

**VERSUS**

**MUTHUAPPA BHAUAPPA SHIWALE L.RS. KUSUMBAI AND OTHERS  
.....Respondents**

Mrs. Ansari Asfia Nuzhat, Advocate for the applicants  
Mr. V. C. Solshe, Advocate for the respondent Nos. 1-B & 1-C  
Mr. S. S. Shinde, Advocate for the respondent Nos. 5 and 6  
Mr. Syed Asif Ali, Advocate for respondent Nos. 2/B to 2/F

**CORAM : ABHAY J. MANTRI, J.**

**DATE : 15<sup>th</sup> DECEMBER, 2025**

**PER COURT :**

1. Heard the learned advocates for the respective parties and perused the record.
2. The applicants have moved this application to condone the delay of 1758 days in filing the application for restoration of the application to restore the second appeal, for which, the learned advocate for the respondent No. 5 & 6 and 2/B to 2/F have strongly opposed. Mr. Syed Asif Ali, learned advocate for the respondent, supported the application.

3. Perused the record. It appears that in 2008, the second appeal was dismissed; it was restored by order dated 13-04-2015, and the delay was condoned subject to a cost of Rs. 7500/-.

4. Thereafter, by order dated 10-12-2015, the second appeal was again dismissed for non-prosecution. Therefore, the applicant filed an application for restoration of the second appeal in 2018. However, despite being afforded sufficient opportunity to remove the office objections, the applicants failed to do so within the stipulated period. Therefore, registration of the said application was refused. Accordingly, the applicants have filed this application to set aside the order of refusing registration of the application for restoration of the second appeal.

5. During the argument, the learned advocate for the respondent Nos. 5 and 6 submitted that, subject to a heavy cost of Rs. 10,000/- each to the applicant Nos. 5 and 6, the application to condone the delay may be allowed. It further appears that during the pendency of the appeal, the land in question was sold by respondent No. 1 to respondents No. 5 and 6.

6. Having considered the same and as the applicants are claiming their right based on orders passed by both courts below, in my view, it would be appropriate to give them one more opportunity to contest the matter on merits, subject to cost as propounded by the

learned advocate for the respondent Nos. 5 and 6.

7. Having considered the same, in the interest of justice, the application is allowed subject to the cost of Rs. 10,000/- each payable to respondent Nos. 5 and 6. The order dated 05-12-2018, passed by the learned Registrar (J), is hereby quashed and set aside. The learned advocate for the applicants undertakes to remove the office objections within four weeks from today. The application for restoration of the second appeal shall be restored subject to the deposit/payment of the cost and the removal of office objections, within five weeks, failing which the application shall stand rejected without further reference to the court.

**[ABHAY J. MANTRI, J. ]**

VishalK/30ca1742.24.odt