

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.35 OF 2021

(CIVIL APPLICATION (ST) NO.21286 OF 2008)

IN

REJECTED CASE NO.1871 OF 2010

Ramesh Narayan Thakur
since deceased through legal heirs
Roshani Ramesh Thakur & Ors.

...Applicants

Versus

Kashibhai Narayan Thakur
since deceased through legal heirs
Prakashnarayan Thakur & Ors.

...Respondents

WITH

INTERIM APPLICATION NO.1131 OF 2021

IN

REJECTED CASE NO.1871 OF 2010

Umesh Narayan Thakur & Ors.

...Applicants

Versus

Kashibhai Narayan Thakur
since deceased through legal heirs
Prakashnarayan Thakur & Ors.

...Respondents

WITH

INTERIM APPLICATION NO.1132 OF 2021

IN

REJECTED CASE NO.1871 OF 2010

Umesh Narayan Thakur & Ors.

...Applicants

Versus

Kashibhai Narayan Thakur
since deceased through legal heirs
Prakashnarayan Thakur & Ors.

...Respondents

Mr. S. B. Shetye, for the Applicants.

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Mr. Rakesh Bhatkar with Mr. Mohan Devkule and Ms. Aarya Ambulkar, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.
DATED : 5th AUGUST 2025

P. C.:

CIVIL APPLICATION NO.35 OF 2021 (CIVIL APPLICATION (ST)
NO.21286 OF 2008):

1. The relief sought in this Civil Application is recall of order dated 9th October 2007 passed in Civil Application No.909 of 2007.

The said order dated 9th October 2007 reads as under:

“1. Rule returnable on 14th December 2007. In addition to service of notice through court, the Advocate for the Applicants is directed to serve private notice to the Respondents and file Affidavit of service before the returnable date failing which Applicant shall stand dismissed for non prosecution without reference to the Court.”

2. For the reasons set out in the Civil Application, the same is allowed in terms of prayer clauses (a) and (b).

3. Accordingly, the Civil Application No.909 of 2007 in Second Appeal (ST) No.11117 of 2007 is restored to the file of this Court.

4. The Civil Application No.35 of 2021 (Civil Application (ST) No.21286 of 2008 is disposed of in above terms with no order as to costs.

CIVIL APPLICATION NO.909 OF 2007:

1. By consent of the parties, Civil Application No.909 of 2007 is taken for hearing.

2. The relief sought in this Civil Application is to condone the delay of 8 days in filing the Second Appeal.

3. Learned Counsel appearing for the Respondents strongly opposes the Civil Application.

4. However, for the reasons set out in the Civil Application, the same is allowed in terms of prayer clause (a).

5. Accordingly, the Civil Application No.909 of 2007 is allowed in above terms with no order as to costs.

SECOND APPEAL (ST) NO.11117 OF 2007:

1. As the Second Appeal was dismissed pursuant to the order dated 9th October 2007, Mr. Shetye, learned Counsel appearing for Appellants states that if the papers of the Second Appeal are not traceable, liberty be granted to him to reconstruct the record.
2. Accordingly, permission to reconstruct the record of Second Appeal is granted and the same be done within a period of four days from today.
3. Second Appeal be listed for “admission” on 15th September 2025.

[MADHAV J. JAMDAR, J.]