

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 19008 OF 2022.

IN

FIRST APPEAL NO. 712 OF 1992.

Somshanakar Mallikarjun Deshmukh ...Applicant.

IN THE MATTER BETWEEN

Chimnabai Mallikarjun Deshmukh ... Appellant

Versus

The State of Maharashtra & Ors. ...Respondent.

Mr. Shrishail Sakhare for the Appellant.

Mr. A. R. Patil AGP for the State.

Coram : Sharmila U. Deshmukh, J.

Date : January 6, 2025.

P. C. :

1. Not on board. Mentioned. Taken on board.
2. Interim Application has been preferred seeking recall of the order dated 20th August, 2015 dismissing the appeal for want of prosecution.
3. Mr. Sakhare, learned Counsel appearing for the Applicant would submit that Appeal was admitted and kept for final hearing, however, there was no communication after the admission of the Appeal. He submits that the Applicant's mother and father expired in the meantime and he was unaware about the legal procedures. He

submits that due to the death of the earlier advocate the Applicant could not get the papers and proceedings and thereafter took photo copies of the record and proceedings and filed the present Application by reason of which there is delay of almost 7 years.

4. As the proceedings were admitted it is well known that after admission of the appeal there is communication gap between the advocate on record and the litigant. Further in the present case it is pleaded that the earlier advocate had expired and similarly the original appellant had also expired and by reason of the same there has been delay of 7 years. The explanation tendered is sufficient to condone the delay of 7 years especially as the proceedings pertain to the Land Acquisition proceedings.

5. In light of the above, the Interim Application is allowed. The order dated 20th August 2015 is recalled and the First Appeal is restored to file.

6. List the above First Appeal on the final hearing board of **31st January 2025.**

[Sharmila U. Deshmukh, J.]