

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.13543 OF 2024
IN
SECOND APPEAL NO.35 OF 2011

Shri. Krishna Dattu Sutar alias ...Applicants
Lohar & Ors.

Versus

Shri. Jotiba Krishna Dhakolkar ...Respondent

Mr. D.B. Patil, Advocate for Applicants.

CORAM: MADHAV J. JAMDAR, J.

DATED : 8th July 2025

P.C.:

1. The relief sought in the Interim Application is to recall the Order dated 21st March 2024 passed by a learned Single Judge and to restore the Second Appeal No.35 of 2011 to the file of this Court.

2. By Order dated 21st March 2024, a learned Single Judge has dismissed the Second Appel for non-prosecution as none has appeared for the Appellants.

3. Mr. Patil, learned Counsel for the Applicants states that due to personal reasons, learned Advocate then appearing for the

Applicants/Appellants could not attend the matter. It is submitted by Mr. Patil, learned Counsel that during that time, Mr. Salunkhe, learned Advocate earlier appearing for the Applicant was not available in Mumbai for personal reasons.

4. Mr. Patil, learned Counsel further submits that as far as the Order dated 9th May 2025 passed by this Court is concerned, due to personal reasons, he could not attend the matter and therefore he had filed a Leave Note. He tenders apology for non attending the matter on 9th May 2025.

5. By Order dated 22nd April 2025, a learned Single Judge has directed the Registrar (Judicial-I) to make an appropriate enquiry concerning the conduct of the officials of the Second Appeal Branch as it was found that the officials have prepared a back dated report.

6. The concerned officials of the Second Appeal Branch of this Court namely Assistant Section Officer and Section Officer have submitted explanation dated 5th May 2025 and stated that inadvertently, the date was put as 19th April 2025. The Assistant Registrar, Second Appeal Branch has also given his explanation dated 5th May 2025.

7. Thus, although in the facts and circumstances, the explanation given by the officials is accepted, concerned officials shall be more careful in future. Accordingly, no further action needs to be taken against the concerned officials. They have accepted the mistake, which has taken place inadvertently.

8. The explanation given by Mr. Patil, learned Counsel for the Applicants is also accepted for his absence on 9th May 2025.

9. For the reasons set out in the Interim Application No.13543 of 2024, the same is allowed in terms of prayer clause (a).

10. Accordingly, Order dated 21st March 2025 passed in Second Appeal No.35 of 2011 is quashed and set aside and said Second Appeal is restored to file of this Court.

11. Second Appeal be placed for final hearing as per its turn.

(MADHAV J. JAMDAR, J.)