

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.11 OF 2025
IN
SECOND APPEAL NO.307 OF 2011

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Gangaram Dagdu Kharade

Since deceased through LR's.

1A) Ashok Gangaram Kharade & Ors.

...Applicants

Versus

Baburao Bandu Kharade

(Since deceased through LR's)

1.A Kamal Babu Kharade & Ors.

...Respondents

Mr. Rajesh N. Kachare, for the Applicants/Appellants.

Mr. Harsh P. Dedhia, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.

DATED: 26 JUNE 2025

P.C.:

1. The relief sought in the Civil Application is to set aside the Orders dated 13th July 2018, 25th January 2019 and 4th March 2019 passed by the learned Registrar (Judicial-II) in Civil Application No.1218 of 2016 and that the Second Appeal be restored to the file of this Court.

2. Mr. Kachare, learned Counsel for the Applicants states that the reasons are set out in Civil Application. He states that Affidavit of service was not noticed by the learned Registrar.

3. A learned Single Judge by Order dated 12th March 2025 has

directed the Applicants to file further Affidavit. Accordingly, further Affidavit dated 21st June 2025 has been filed and request is made to condone the inadvertent omission of the Advocate's Office to take further steps.

4. Accordingly, for the reasons set out in the Civil Application and the Additional Affidavit dated 21st June 2025, Civil Application No.11 of 2025 is allowed in terms of prayer clause (a) with cost of Rs.500/-. The said cost be paid to the Kirtikar Law Library within a period of two weeks.

5. Accordingly, Civil Application No.1218 of 2016 and the Second Appeal No.307 of 2011 are restored to the file of this Court.

6. Mr. Kachare, learned Counsel for the Applicants/Appellants, states that Second Appeal is of the year 2011. The Second Appeal has been admitted by Order dated 20th June 2012 and stay has been granted to the impugned Judgment and Decree. Mr. Dedhia, learned Counsel states that in fact possession has been given to the Respondents in execution and to substantiate said contention he relies on a Bailiff Report dated 4th January 2025. Mr. Kachare, learned Counsel of the Applicants disputes said position. He tenders Affidavit dated 8th May 2025.

7. In the facts and circumstances, parties are directed to maintain status-quo.

8. Liberty is granted to the Applicants to take a fresh Interim Application, if necessary.
9. The Civil Application is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]