

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1047 OF 2024
WITH
INTERIM APPLICATION NO.1049 OF 2024
IN
SECOND APPEAL NO.253 OF 2008

Dnyanoba Bhika Sorte	...Applicant
<u>In the matter of between :</u>	
Dnyanoba Bhika Sorte	...Appellant
<i>Versus</i>	
Sudam Dnyanoba Jadhav (deceased) through legal heirs Mangal Sudam Jadhav & Ors.	...Respondents

Mr. Nikhil Wadikar, Advocate for Applicant
Mr. S.R. Firodiya, Advocate for Respondent Nos. (a) to (c), 2, 4, 5,
6 and 7.

CORAM: MADHAV J. JAMDAR, J.
DATED : 18th June 2025

P.C.:

1. The Interim Application No.1049 of 2024 is filed seeking to restore the Second Appeal to the file of this Court as by the Order dated 19th June 2023, this Court has dismissed the Second Appeal for non-prosecution. The said order reads as under:

“1. Heard Ms. Aparna Shinde, learned counsel appearing for the Respondents.

2. None appears for the Appellant.

3. The Second Appeal is of the year 2008.
4. On 27th April 2023, this Court has passed the following order:-

"1. Heard Ms. Shinde, learned Counsel appearing for the Respondents. None appears for the Appellant.

2. The Second Appeal is of the year 2008.

3. Ms. Shinde, learned Counsel appearing for the Respondents states that the Respondents are the original Plaintiffs, who have filed the Suit in 1998 seeking specific performance. The Suit bearing Regular Civil Suit No. 25 of 1998 was decreed by the judgment and decree dated 20th April 2000 and the appeal filed challenging the same by the present Appellants also dismissed by the judgment and decree dated 21st September 2002. She further states that some of the Respondents are senior citizens.

4. Therefore, add the Second Appeal in the final hearing board commencing from 5 (th) June 2023. To be shown in the category of 'Senior Citizens.'

5. Thereafter, on 8th June 2023, matter appeared on final hearing board at Serial No.237. As none appeared for the Appellant, it was directed to be shown in the Supplementary Board for direction on 14th June 2023. On 14th June 2023 also, none appeared for the Appellant and therefore, the matter was adjourned to 15th June 2023 for final hearing/dismissal. On 15th June 2023, this Court has passed the following:-

"1. Heard Ms. Devika Kakoo, learned counsel appearing for the Respondents.

2. None appears for the Appellant.

3. The Second Appeal is of the year 2008.
The same is expedited.

4. On earlier dates also, none appeared for
the Appellant.

5. Stand over to 19th June 2023.

6. To be shown under the caption for
"direction"/ "dismissal".

7. It is made clear that if on that date,
learned counsel of the Appellant did not
remain present, then the Second Appeal will
be dismissed for non-prosecution."

6. Today also none appears for the Appellant. The
Second Appeal is dismissed for non-prosecution.”.

2. As there is delay in filing the Interim Application No.1049 of
of 2024, the Interim Application No.1047 of 2024 is filed.

3. It is the submission of the learned Counsel for the Petitioner
that earlier Mr. P.M. Khamkar, learned Advocate was appearing for
the Appellant. He states that he is 85 years old and suffering from
various ailments and therefore not in a physical position to attend

the Court. He states that therefore none has appeared before this Court.

4. Learned Counsel for the Respondents states that although several opportunities were given, the Appellant or his Advocate has failed to appear and therefore the discretionary relief be not granted.

5. However, in the facts and circumstances of the case and as the learned Advocate representing the Appellant is 85 years old and not keeping good health, Interim Application Nos.1047 of 2024 and 1049 of 2024 are allowed. Accordingly, the Order dated 19th June 2023 passed by this Court in Second Appeal No.253 of 2008 is set aside and the Second Appeal is restored to the file of this Court.

6. As the Second Appeal is restored to the file of this Court, interim relief granted earlier shall remain in operation till disposal of the Appeal.

7. Considering that both the parties are senior citizens, the Second Appeal be listed in the final hearing board on **9th July 2025** under the caption of “senior citizens”.

(MADHAV J. JAMDAR, J.)