

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Interim Application No.1591 of 2024

In

Writ Petition No.2324 of 2009

Dharmpal Atmaram Hiwale and others ... Applicants

V/s.

Mrs. Asha Dharmpal Hiwale and anr. ... Respondents.

Mr. Kamlesh Mali for the Applicants.

Ms. M.H. Mhatre, APP for the State.

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**CORAM : SARANG V. KOTWAL
& S.M. MODAK, JJ.**

DATE : 29th April 2025.

P.C.:

This is an application for restoration of Cr. Writ Petition No.2324/2009 which was dismissed for non-prosecution vide the order dated 31st August 2023.

2. Learned Counsel for the Applicants submitted that the original writ petition was admitted vide the order dated 23rd February 2010. The order reads thus:

“Rule.

Upon hearing of the parties ad-interim relief in terms of prayer clauses (b) and (c).”

3. After that the matter appeared for final hearing and it was

dismissed on 31st August 2023 because learned Advocate was not present.

4. Learned Counsel for the Applicants submitted that on that day when the matter was called out, he was suffering from Influenza and it was a contagious disease and, therefore, he was quarantined and therefore, he could not remain present before the Court. The cause of remaining absent is genuine and, therefore, the writ petition deserves to be restored. When the writ petition was dismissed, nobody had appeared for the Respondent No.1. In this background, the following order is passed:

ORDER

- (i) The Criminal Writ Petition No.2324/2009 is restored to its original file.
- (ii) The relief granted in terms of prayer clauses (b) and (c) which was in the nature of ad-interim/interim relief vide the order dated 23rd February 2010 is also restored.
- (iii) The matter to proceed in due course for final hearing.

5. The Interim Application stands disposed of.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)