



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.409 OF 2025

IN

FIRST APPEAL NO.995 OF 2002

Gangotri Sadan Co-Op. Housing Society Ltd.	... Applicant.
<u>In the matter between:</u>	
Gangotri Sadan Co-Op. Housing Society Ltd.	... Appellant.
<u>Versus</u>	
The Municipal Corporation of Gr. Bombay & Anr.	... Respondents.

Mr. Jitendra Damani for the Applicant.
Ms. Pallavi Khare for the Respondent-Corporation.

Coram : Sharmila U. Deshmukh, J.

Date : January 16, 2025

P. C. :

1. Interim Application has been preferred seeking recall of the order dated 10th July, 2024 dismissing the Appeal for non-prosecution and for condonation of delay of 108 days caused in preferring the Interim Application.
2. Learned counsel appearing for the Applicant submits that the Appeal which was of the year 2002 was not appearing on the board and on inquiry with the earlier Advocate on record, they were informed that as and when the matter is listed the Society will be informed about the same. He submits that when the Society itself checked the status, it was noticed that the Appeal has been dismissed for non-prosecution and thereafter, there was change of Advocate and the present Advocate has been appointed in the matter.

3. Learned counsel appearing for the Respondents submits that it is the duty of the litigant to be diligent about the proceedings and as none was present, the Appeal came to be dismissed for non-prosecution. The Appeal is of the year 2002 and it is well known that in case of such old appeal, usually there is communication gap between the Advocate on record and the litigant. The same is the circumstance in the present case. It is specifically pleaded that the Society had contacted the Advocate on record and they were informed that as and when the matter will be listed, they will receive information about the same. Thus, it cannot be said that the Society has been negligent by not contacting its Advocate.
4. For the reasons stated in the Application, the delay is condoned and the order of 10th July, 2024 stands recalled. Interim Application stands allowed.
5. As the First Appeal is restored, the order of 16th July, 2002 is revived. List the Appeal on the final hearing board of **21st February, 2025.**

[Sharmila U. Deshmukh, J.]