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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1688 OF 2025
IN
SECOND APPEAL NO. 542 OF 2015

Babasaheb Balasaheb Jasud

.....Applicant

Vs.

Dadabhau Genu Jagtap and ors

.....Respondents

Mr. Anil Anturkar, Senior Advocate (through VC) i/b Mr. Rushikesh Barge Advocate for the Applicant
Mr. A. M. Kulkarni with Mr. Sandip Nawale, Mr. Shailesh Chavan Advocate for the Respondent no. 1

CORAM : GAURI GODSE, J.

DATE : 11th FEBRUARY 2025

ORDER:

1. Heard learned counsels for the parties. This application is for restoration of the second appeal. There is a delay of 8 years and 263 days in filing the application. Hence, there is a prayer for condonation of delay.
2. Learned counsel for the applicant submits that the second appeal was dismissed for non compliance of the order directing the appellant to file private paper-book. Learned counsel for the applicant

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submits that the reasons for delay are explained in the application.

3. Learned counsel for the respondents opposes the application on the ground that the appellant tried to create third party rights in respect of the suit property with an intention to defeat the respondents' rights. He submits that the respondents were required to file an application in the execution proceedings seeking injunction restraining the appellant from creating third party right in respect of the suit property. He, therefore, opposes restoration of the second appeal.

4. Learned counsel for the appellant on instructions of the appellant who is present in the Court submits that he has not created any third party rights in respect of the suit property and he shall not create any third party rights in respect of the suit property during the pendency of the second appeal.

5. Statement made on behalf of the appellant is accepted as an undertaking to the Court.

6. Learned counsel for the appellant further submits that private paper-book is ready and it will be filed within two weeks. He submits that he has already served copy of private paper-book on learned advocate for respondent. The conditional order is operative only for not

filing private paper-book.

7. Hence, in the facts and circumstances of the case, delay is condoned and the application is allowed in terms of prayer clause (A) and (B) subject to learned advocate for the appellant filing private paper-book within four weeks from today.

8. It is clarified that if private paper-book is not filed within time, the application shall stand dismissed without further reference to the Court.

9. The second appeal is restored subject to the aforesaid compliance. The ad-interim relief granted in Civil Application No. 1197 of 2015 is also restored.

10. Learned counsel for the respondents submits that respondent nos. 6, 7 and 8 have expired.

11. Learned counsel for the appellant shall take necessary steps to bring on record the heirs and legal representatives of the deceased respondents within four weeks.

12. The ad-interim relief is restored subject to the aforesaid compliance.

13. List the Civil Application No. 1197 of 2015 on 25th March 2025.
14. If any application for legal heirs is filed, same to be listed on the next date.
15. Interim Application is disposed of in aforesaid terms.

[GAURI GODSE, J.]