

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2704 OF 2025.

IN

FIRST APPEAL NO. 862 OF 2022.

Rajkumar Ramkripal Kori And Anr.

...Applicants
/Appellants.

Versus

Rajkumar Ramkripal Kori And Anr.

...Respondents.

Adv. Vincent Elias Pereira for the Applicants.

Mr. V. L. Vora for the Respondents.

Coram : Sharmila U. Deshmukh, J.

Date : February 24, 2025.

P. C. :

1. Heard.
2. By this Application the Applicants seeks recall of the order dated 6th September, 2023 and 1st November, 2023 by which due to non removal of office objections, the conditional order came into effect and the appeal stood dismissed.
3. Learned Counsel appearing for the Applicant submits that the Applicant is an uneducated person who was not aware about the orders and it is only when the Respondent No. 2 filed an execution Application that the dismissal of the Appeal came to the notice of the Applicant. He submits that thus due to lack of knowledge there is delay

of 1 year and 36 days caused in filing the Application.

4. Learned Counsel appearing for the Respondent would oppose the Application and would submit that despite decree in their favour they are unable to execute decree as delay tactics are adopted by Applicant. He submits that the Applicant was well aware about the conditional order and it was their duty to remove office objections within time and that there is no sufficient explanation for the delay of 1 year and 36 days.

5. I have considered the submissions and perused the records.

6. By order dated 6th September, 2023, this Court had directed the removal of office objection failing which the Appeal to stand dismissed without further reference to the Court. As the office objections were not removed, the conditional order came into effect and the First Appeal stood dismissed for non compliance. It is matter of common knowledge that it is duty of the Advocate on record to ensure compliance with the conditional order as far as the removal of the office objection is concerned and for default on part of the Advocate on record, the litigant cannot be made to suffer. It is also not shown by the learned Counsel appearing for the Respondent that the Applicants was aware of the conditional order coming into effect. It is specific pleading in the Application that the conditional order came to the

Applicants knowledge only when the execution Application was filed. There is no reply which is filed to the Application to dispute the said position. The delay has occurred due to lack of knowledge on part of Applicants.

7. For the reasons stated in the Application, the delay of 1 year 36 days stands condoned. The order dated 6th September, 2023 and 1st November, 2023 as far as the dismissal for non removal of office objection stands recalled subject to the office objection being removed within a period of one week from today.

8. List the First Appeal on **3rd March, 2025.**

[Sharmila U. Deshmukh, J.]