

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 9626 OF 2024.

IN

REJECTED CASE NO. 1682 OF 2014.

Usha Ramesh Shelar And Anr. ...Applicants.

Versus

Union Of India Thr, General Manager ...Respondent.

Mr. Vasant Ninaji More for the Applicants.

Mr. Gautam Modanwal a/w Noorjahan Khan i/by T. J. Pandian for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : January 23, 2025.

P. C. :

1. Interim Application has been preferred seeking recall of the order dated 14th December, 2023, dismissing the Civil Application No. 1583 of 2017 for non prosecution. Civil Application No. 1583 of 2017 was filed for condonation of delay in filing First Appeal.

2. Learned counsel appearing for the Applicant submits that the Applicant was not informed about the orders passed by this Court. On 15th April, 2024 when the Applicant tried to contact their Advocate they become aware that the Advocate has expired on 7th June, 2021. He submits that as the Applicant were not aware about the death of

their Advocate, the Applicant could not make necessary arrangement for briefing some other Advocate and consequently the Civil Application remained unattended when listed for hearing.

3. Learned Counsel appearing for the Respondent opposes the Application and submits that it is duty of the Applicant to ensure that the matter is attended regularly.

4. The First Appeal and the Civil Application are of the year 2010. It is pleaded that the Applicants were not aware about the death of their advocate in the year 2021. The order of 14th December, 2023 records that the matter was listed for hearing on 30th November, 2023 and 7th December, 2023. As the matters were not attended, consequently on 14th December, 2023 the Civil Application was dismissed.

5. Today the Interim Application has been preferred seeking restoration of the Civil Application No. 1583 of 2017 which was dismissed for non prosecution. The reasons for non-attendance is the death of the Advocate in the year 2021 about which there was no information received by the Applicants. The Applicants thus cannot be faulted for non-appearance.

6. Considering that the explanation which has resulted into the dismissal of the Application and the proceedings arise out of the Railway Claims Tribunal, in the interest of justice, the order dated 14th

December, 2023 is recalled. The Civil Application is restored to file.

7. Interim Application is allowed.

[Sharmila U. Deshmukh, J.]