

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 12001 OF 2024.

IN

FIRST APPEAL NO. 1112 OF 2022.

Shri. Subhash Dattoba Chandere And Ors.

...Applicants.

Versus

Shri. Dattatraya Kerba Lonkar And Ors.

...Respondents.

Mr. Virendrasinh Vijay Tapkir for the Applicants.

Coram : Sharmila U. Deshmukh, J.

Date : January 23, 2025.

P. C. :

1. Interim Application has been preferred seeking recall of the clause (3) of the order dated 31st January, 2023 directing the filing of the paper-book within one year failing which the Appeal stands dismissed without further reference to the Court.

2. Learned Counsel appearing for the Applicant submits that the Applicant had been diligently pursuing the matter since the year 2006 and the non filing of the paper-book is due to default on part of the Advocate for which the litigant should not suffer.

3. As the conditional order of filing of paper-book within the prescribed time was not complied the Appeal came to be dismissed. Admittedly it is default on part of the Advocate in non filing of the

paper-book for which the litigant cannot suffer any prejudice.

4. For the reasons stated, the conditional order dismissing the Appeal for non filing of the paper-book within a period of one year is recalled.

5. The First Appeal is restored to file. Private paper-book to be filed within a period of 6 months from today.

6. Interim Application is allowed.

[Sharmila U. Deshmukh, J.]