

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1973 OF 2025
WITH
INTERIM APPLICATION NO. 1974 OF 2025
IN
INTERIM APPLICATION NO. 8752 OF 2024
IN
FIRST APPEAL (ST) NO. 14272 OF 2024**

The New India Assurance Co. Ltd. ...Applicant

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd. ...Appellant

vs.

Kavita Rajesh Parekh and Ors. ...Respondents

Mrs. S.S. Dwivedi, for the Applicant in Interim Application Nos. 1973 of 2025 and 1974 of 2025 in First Appeal (ST) No. 14272 of 2024.

Mr. Sumit Choudhary i/b Akshay Deshmukh, for the Respondent Nos. 1 to 4 in Interim Application Nos. 1973 of 2025 and 1974 of 2025.

CORAM : SHYAM C. CHANDAK, J.

DATED : 3rd March, 2025.

P. C. :

INTERIM APPLICATION NO. 1973 OF 2025

1) Learned Counsel for the applicant, at the outset, seeks leave to amend the prayer clause. Leave to amend. Amendment to be carried out forthwith.

- 2) Learned Advocate for the respondent Nos. 1 to 4 waives notice.
- 3) Perused the application.
- 4) Heard learned Advocate for the applicant and learned Advocate for the respondent Nos. 1 to 4.
- 5) The present application is seeking restoration of Interim Application No. 8752 of 2024 in First Appeal (st.) No. 14272 of 2024, which came to be dismissed for want of compliance. There is delay of 152 days in filing this Application.
- 6) Learned Advocate for the applicant submitted that the applicant wanted to take steps against the respondent No.5, as the summons returned unserved with bailiff's remark "Not found". She submitted that the address transcribed on the packets containing the said notice was true, correct and last known address of the respondent No.5. She submitted that the applicant tried its best to trace the whereabouts of the said respondent No.5 but could not get it. Hence, there was a delay in searching the whereabouts of respondent No.5. The said delay of 152 days is not deliberate. The

applicant has not gained any advantage on account of said delay.

7) In view thereof, this application is allowed. The delay condonation application stands restored with immediate effect.

INTERIM APPLICATION NO.1974 OF 2025

1) The present application is seeking to serve the respondent No. 5 in IA No. 8752 of 2024, by way of paper publication.

2) As stated in the application, the court notice issued to said respondent No.5 in IA No. 8752 of 2024 returned unserved with the remark "Not found".

3) Learned Advocate for the applicant submits that the address transcribed on the packets containing said notice to respondent No.5 is the true and correct address and the last known address of the respondent No.5. The applicant tried to trace out the whereabouts of the respondent No.5, but could not get his whereabouts.

4) In view thereof, the application is allowed in terms of prayer clause (a).

5) Notice to respondent No.5 is made returnable on **15th April, 2025.**

[SHYAM C. CHANDAK, J.]