

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3950 OF 2025.

IN

FIRST APPEAL NO. 908 OF 2018.

Nitin Vasant Patil & Anr.

...Applicants.

Versus

Mukund Iron Staff Association Co-Operative
Housing Society Ltd. And Ors.

...Respondents.

Mr. Ganesh Murthy i/by K. V. Aiyar & Associates for the Applicant.

Mr. Pralhad Paranjpe and Mr. Manish Kelkar for the Respondent No. 1.

Coram : Sharmila U. Deshmukh, J.

Date : April 2, 2025.

P. C. :

1. Not on board. Mentioned. Taken on board.
2. Interim Application has been preferred seeking restoration of the First Appeal which was dismissed for non prosecution on 14th February, 2025.
3. Learned Counsel appearing for the Applicant submits that when the matter was called out the advocate on record was in some other Court and therefore could not attend the matter.
4. The First Appeal was listed specifically for final hearing as the suit was of the year 1988. It was duty of the Applicant to ensure his presence or atleast ensure that the Court is informed the reasons for non appearance. It is clearly case of negligence. Even though I am

inclined to restore the First Appeal the same cannot be without payment of cost.

5. The Interim Application is allowed subject to payment of cost of Rs. 5,000/- to the Kirtikar Law Library to be paid within a period of two weeks from today.

6. List the above First Appeal on the final hearing board of **13th June, 2025.**

[Sharmila U. Deshmukh, J.]