

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 7950 OF 2025

IN

FIRST APPEAL NO. 532 OF 2001

Alka Sukhdeo Patole and Others

...Applicants/Appellants

Versus

Municipal Corporation of Greater Mumbai

...Respondents.

Mr. Saurabh More, Mr. Shashikant Ubale for Applicants.

Ms. Vidya Vyavhare for Respondent-Corporation.

Coram : Sharmila U. Deshmukh, J.

Date : 7th May, 2025.

P. C. :

1. Interim Application has been preferred seeking recall of order dated 13th July, 2022 *qua* the present Appellant by which the present First Appeal came to be dismissed for non-filing of the private paper book by common order and for condonation of delay of 815 days caused in preferring the Interim Application and for extension of time to carry out amendment.

2. Learned counsel appearing for Applicant submits that in the year 2021, the sole Appellant expired and the Application was moved for the purpose of bringing the legal heirs on record, which was permitted by order dated 4th March, 2022. He submits that as amendment remained to be carried out by reason of inadvertence on the part of Advocate's office, order of 13th July, 2022 could not be noticed and

hence, there is delay.

3. Learned counsel appearing for Respondent-Corporation opposes the Application and submits that there is no sufficient explanation for delay.

4. The First Appeal is of the year 2001 and has been dismissed for non-filing of the private paper book. It is a specific pleading that the sole Appellant had expired in the year 2021 and thereafter, the Application was moved to bring the legal heirs on record which amendment could not be carried out. It is inadvertence on the part of the Advocate's office that the private paper book was not filed within time and litigant could not be made to suffer for the same. The Appeal is of the year 2001 and the only reason that it came to be dismissed was for non-filing of the private paper book. As the legal heirs were not brought on record, no appropriate steps could be taken for filing of the paper book and hence, order of 13th July, 2022 came into effect.

5. For the reasons stated, order of 13th July, 2022 *qua* the present Appeal is recalled.

6. Interim Application is allowed. First Appeal is restored to file.

7. Let the private paper book be filed within a period of 6 months from today.

8. Time to carry out the amendment is extended by a period of 6 weeks from today.

9. As the First Appeal is restored, interim order stands revived.

[Sharmila U. Deshmukh, J.]