

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

**INTERIM APPLICATION NO. 10719 OF 2025
IN
COMMERCIAL APPEAL FROM ORDER STAMP NO. 26166 OF 2025**

M/s. Amogh Enerprises. ... Applicant

In the matter between

M/s. Amogh Enerprises. ... Appellant

V/s.

Magathane Kinara Co-op. Hsg. Soc. Ltd. & Anr. ... Respondents

Ms. Minal Patil i/b Dutta Associates for the Applicant.

Mr. Vagish Mishra a/w Mr. Uttam Dubey, Mr. Rajuram Kuleriya and Mr. Emad Khan i/b Law Counsellors for Respondent No. 1.

Mr. Akhilesh Dubey a/w Amit Dubey and Abhishek Karnik i/b Bhushan Bankar for Respondent No. 2.

**CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.**

DATE : 17th SEPTEMBER 2025

ORDER :

1. By this Interim Application, the Appellant/Applicant has sought condonation of delay of 52 days in filing the Commercial Appeal From Order (L) No. 26166 of 2025.

2. The Applicant in the Interim Application has given the cause for the

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delay as being on account of discharge of the previous Advocate and appointment of a new Advocate. It is stated that Applicant's previous Advocate was discharged from the matter vide Chamber Order dated 11th July, 2025 which necessitated immediate appointment of new Advocate M/s. Dutta Associates who are the current Advocates on record. It is stated that M/s. Dutta Associates has filed vakalatnama in the main Commercial Suit No. 1249 of 2019 (Suit No. 93 of 2025) on 18th July, 2025, after the Chamber Order was uploaded on 17th July, 2025. Further, it is stated the additional period of 11 days was diligently utilised by the new Advocate from the date of filing vakalatnama until 29th July, 2025 to meticulously review the extensive case papers, finalise the grounds of appeal, and prepare the comprehensive Commercial Appeal for filing. The further cause of the delay is mentioned as document collection challenges.

3. The learned Counsel appearing for the Respondents has referred to the letter dated 28th February, 2025 addressed by M/s. Dutta Associates to the Advocates for the Respondent No. 2 wherein it is stated that M/s. Dutta Associates are representing the Applicant as Counsel in the matter having been appointed by M/s. Elixir Legal (the erstwhile Advocates in the present Interim Application). He has submitted that this clearly shows that the M/s. Dutta Associates all along represented the Applicant and that the cause for the delay viz. M/s. Dutta Associates having been newly appointed as Advocates and that they had taken time for filing their vakalatnama, and

reviewing extensive case papers, finalising the grounds of appeal and preparing the comprehensive Commercial Appeal is totally dishonest.

4. The learned Counsel appearing for Respondent No. 1 has referred to an order dated 27th November, 2024 wherein the Interim Application taken out by the present Applicant in the above suit had been disposed of as not surviving and the other two Interim Applications taken out i.e. one for condonation of delay and the other under the provisions of Order VII Rule 10 of the CPC was directed to be served upon the other side and the reply to be filed. He has submitted that the Interim Application, thereafter filed for recall of the Order dated 27th November, 2024 had been filed by the Advocate M/s. Dutta Associates in December 2024. This also causes to show that the Advocates M/s. Dutta Associates have all along been representing the present Applicant.

5. Having considered the submissions, we are of the view that the cause shown for the delay in filing of the Commercial Appeal is utterly dishonest. M/s. Dutta Associates though stated to be newly appointed Advocates vide Chamber Order dated 11th July 2025, has all along been in the know of these proceedings. They have represented the Applicant both as Counsel as well as the Advocate filing the Interim Application (L) No. 5368 of 2025, for recall of the order dated 27th November, 2024. Thus, there could not have been delay on the ground of appointment of M/s. Dutta Associates and/or the delay due

to their alleged meticulous reviewing of extensive case papers, finalising grounds of appeal and preparing the comprehensive Commercial Appeal for filing.

6. Accordingly, the delay of 52 days in filing the Commercial Appeal cannot be condoned. The Interim Application is accordingly dismissed.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)