

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 11643 OF 2025
IN
APPEAL FROM ORDER (ST) NO. 28880 OF 2025

Rupa Shardaprasad Tiwari

Applicant /
.. Appellant

Versus

Manoj Shardaprasad Tiwari & Anr.

.. Respondents

.....

- Mr. Rajesh Kanojia a/w A. Shukla, Mr. Dilip Gupta, Mr. Devendar Shukla i/by Mr. Rohan M. Surve, Advocate for Applicant / Appellants

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 18, 2025

P. C.:

1. Heard Mr. Kanojia, learned Advocate for Applicant / Appellant.
2. Present Interim Application is filed for seeking condonation of delay of 978 days in filing the Appeal from Order (AO).
3. It is seen that warring parties to the present proceedings are siblings rather real siblings. Mr. Kanojia would submit that before the present proceedings were filed, both parties have attempted a reconciliation and settlement which unfortunately did not work out. Reasons for the delay in filing the Appeal from Order (AO) against the impugned order passed on 11.11.2022 has been stated in paragraph No. 3 of the Application. Though there is a substantive delay, Applicant / Appellant who is the sister of Respondents / Defendants

has stated that the parties were attempting to settle the matter mutually without resorting to further litigation and when all such attempts failed, she was left with no choice than to approach this Court.

4. Mr. Kanojia would submit that Applicant hails from a modest background and it is very difficult for her to arrange funds which led to delay in filing the AO. The reasons stated in paragraph No. 3 *prima facie* are believable. Considering the fact that Applicant is a woman and in view of the reasons stated in the Application, I am inclined to allow the Application in terms of prayer clause (a). Delay is condoned.

5. Interim Application No. 11643 of 2025 is disposed.

Appeal from Order (St) No. 28880/2025:-

6. Now AO and Interim Application (St) No.28882/2025 are taken up for hearing.

7. Mr. Kanojia, learned Advocate for Appellant is directed to file affidavit of service as he informs the Court that notice has been issued to the Respondents.

8. Considering the fact that the impugned order is passed on 11.11.2022, Mr. Kanojia would submit that ad-interim relief be granted to the extent of directing Respondents who are Defendants in

the Suit not to create third party rights in the suit property for the present so that share of Plaintiff - Applicant who is their real sister will stand protected. He would submit that principal Suit filed before the Trial Court is for declaration of her share i.e. for partition and in that view of the matter, Court may pass appropriate ad-interim orders.

9. In view of the above submissions, Defendants are directed by this Court not to create any third party rights in the suit property, if not created till today, until the present Interim Application is heard for interim reliefs. Undoubtedly the Defendants will be fully heard on merits.

10. Copy of this order shall be served on Defendants by Advocate for Applicant / Appellant.

11. List the AO along with Interim Application (St) No. 28882/2025 for hearing on **9th October, 2025**.

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[MILIND N. JADHAV, J.]

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by RAVINDRA
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