

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

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INTERIM APPLICATION NO.2450 OF 2025

IN

WRIT PETITION NO.1978 OF 2022

Pratik M. Sheth
(Legal heir of late Madhukar C. Sheth) .. Applicant.

In the matter of
Madhukar C. Sheth s/o. Chimanlal Sheth .. Petitioner.

Versus

Union of India & Others .. Respondents.

Adv. Pavan Ved with Adv. Sofiya Shanmugam i/b. Vaish Associates,
for the Applicant.

Adv. Akhileshwar Sharma, for the Respondents.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: JUNE 30, 2025

P. C.

1 The above Interim Application is filed seeking a restoration of the above Writ Petition which was dismissed by order dated 17th March, 2025. The Writ Petition was dismissed because the Advocate appearing on behalf of the Petitioner informed the Court that he had no instructions to argue the matter and in any event, he had not sought any instructions.

2 This Court in paragraph 2 of the order recorded that on 4th May, 2022, an interim order was passed and the Petitioner was enjoying the benefits of the interim order from that date. Since the Petitioner was not prepared to proceed with the merits of the matter, the Petition was dismissed. This apart, the Court also noticed that the impugned transfer orders were made on 16th September, 2019 and the above Writ Petition was filed only on 1st April, 2022. There was no explanation in the Petition for this delay.

3 In other words, the Writ Petition was dismissed on two counts. Firstly it was dismissed because the Advocate for the Petitioner was not willing to proceed with the matter on merits, and secondly, because there was no explanation for the delay in filing the above Writ Petition.

4 Once these are the facts, we find that the above Interim Application seeking to set aside/recall this order, is wholly mis-conceived. We cannot sit in Appeal over and order passed by the another Division Bench. Since one of the grounds on which the above Writ Petition is dismissed, is because of the delay, it is certainly an order which has been passed by that Court after applying its mind to the facts of the case. In such a scenario, the above Interim Application is not maintainable.

5 We accordingly, dismiss the above Interim Application with liberty to the Applicant/ Appellant to take out appropriate proceedings for review of the order dated 17th March, 2025, if so advised.

6 The Interim Application is accordingly dismissed. No order as to costs.

7 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]