

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

INTERIM APPLICATION NO. 7933 OF 2025
IN
SECOND APPEAL NO. 424 OF 2001

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Arvind Dhondiba Dere
Since Deceased
Through His Legal Heirs And Representative
Mangal Arvind Dere and Ors ...Applicants

Versus
Dhondiba Parbati Dere
Since Deceased
Through His Legal Heirs
Nana Dhondiba Dere and Ors ...Respondents

Adv. Ramdas Hake Patil (Through V. C.) a/w Adv. Rushikesh Patil for the Applicants.

Adv. Neha G. Deshpande for Respondent No. 4.

CORAM : M. M. SATHAYE, J.
DATE : 6th FEBRUARY 2026.

P.C.

1. Heard learned advocates for the parties.
2. This is an application for restoration of Civil Application (Stamp) No. 21349 of 2018 of which registration was refused for non-removal of office objections under conditional order dated 22.10.2018.
3. There is delay of 6 years and 134 days in filing the present application. It is stated in the application that due to negligence and mistake of the concerned lawyer, the office objections were not removed. It is further stated that the status of the conditional order was not brought to the knowledge of the earlier advocate by his clerk and steps were not taken. It is further stated that when communication was issued in January, 2025 about the earlier advocate being designated as Senior Advocate, the

status of conditional order came to the knowledge of Applicants and the new advocate. Thereafter the present application is filed immediately on 12.03.2025.

4. Learned Advocate Mr. Hake for the Applicants submitted that the said CAST/21349/2018 was filed for bringing on record the legal heirs of sole Appellant on record. He submits that it was filed in time, however there were certain office objections. He submitted that the proceedings arise out of the partition suit regarding which companion Second Appeal No. 598 of 2001 is also pending which is filed by the contesting Respondent No. 4. He submits that when companion appeal is pending, the application should also be restored.

5. Learned Advocate for Respondent No. 4, relying on the affidavit-in-reply, opposed the application. She submitted that there is inordinate delay in filing the present application and the explanation offered is not sufficient.

6. Averments in the application, in essence, indicates dismissal for technical reason of non-removing office objections and the said rejection/dismissal not being within the knowledge of the Applicants. That is the reason for delay. The dispute is arising out of partition of the family property. The Court cannot lose sight of the fact that the appeal filed by the contesting Respondent challenging the same impugned judgment and decree is pending. Therefore it is clear that the dispute is open between the same parties for adjudication.

7. Considering the aforesaid overall circumstances and considering the averments in the application, in my view, sufficient cause is made out. However, considering the extent of delay, indulgence cannot be shown unconditionally and Applicants will have to pay costs.

8. Hence, **subject to condition of** the Applicants paying cost of Rs. 5000/- to Respondent No. 4 within three weeks from today and its proof being submitted to the Registry, the application is allowed, delay is

condoned, the order dated 22.10.2018 is recalled and the CA/ST/21349/2018 is restored.

9. It is clarified that if Respondent No. 4 does not accept the costs, the same can be deposited in this Court within above time-line and Respondent No. 4 shall be at liberty to withdraw the same.

10. Interim application is disposed of in above terms.

[M. M. SATHAYE, J.]