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

**INTERIM APPLICATION NO. 1050 OF 2026
IN
FIRST APPEAL (STAMP) NO. 28979 OF 2008**

Zarina Rashid Ahmed Shaikh & Ors. .. Applicant/Appellant

V/s.

Shantabai Somrao Gajakos & Ors. .. Respondents

Mr. Y.E. Mooman, for Appellant/Applicant.

Mr. Rajesh Kachare for Respondent no. 1.

CORAM : FARHAN P. DUBASH, J.

DATE : 27th MARCH 2026

P. C.:

1. The present Interim Application seeks to set aside an order dated 14th January 2025, by which the First Appeal bearing (St) no. 28979 of 2008 was dismissed for non-prosecution and for restoration of the First Appeal to the file of this Court. The Interim Application also seeks condonation of delay of 290 days for filing of the same. It is the case of the Applicant that the matter remained unattended on 14th January 2025, since the name of the new Advocate was not reflected on the board and the name of the erstwhile Advocate on record continued to reflect on the board, which resulted in non appearance on the part of the Appellant.

2. A perusal of the record would reveal that the matter had come up on two prior occasions, including on 26th April 2024 and 2nd January 2025. The Appellant ought to have been more diligent in prosecuting the First Appeal and therefore this excuse would not be sufficient to entitle the Appellant for seeking the reliefs sought in the present Interim Application. However, considering that a litigant should not suffer on account of such a mistake, it would be appropriate that some costs be imposed as a condition precedent to allowing this restoration and setting aside the said order.

3. According, the following order is passed :

:: ORDER ::

(i) Subject to the Applicant making payment of a sum of Rs. 15,000/- to Kirtikar Law Library, on or before 10th April 2026 and furnishing necessary proof in that regard, the First Appeal shall stand restored to the file of this Court and the delay of 290 days in preferring this Interim Application shall stand condoned.

(ii) The Applicant shall thereafter remove all the office objections and get the First Appeal numbered, on or before 24th April 2026.

(iii) The present Interim Application is
disposed of in terms of the above order.

(FARHAN P. DUBASH, J.)

Ajay Jadhav