

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

**INTERIM APPLICATION NO. 9142 OF 2025
IN
SECOND APPEAL (ST) NO. 17903 OF 2025**

Prajay Balu Ghule & Ors. ..Applicants
Versus
City Corporation Ltd. & Ors. ...Respondents

Mr. Venkatesh Shinde i/by Mayuresh Ingale, for Applicants.
Mr. Drupad Patil a/w Mr. Amit Karle & Mr. Sameer Tiwari, for
the Respondent No. 1.

CORAM: N. J. JAMADAR, J.
DATED : 04th FEBRUARY 2026

P.C.:

INTERIM APPLICATION NO. 9142 OF 2025

1. Heard the learned Counsel for the parties.
2. This is an application for condonation of 131 days delay in filing the Second Appeal.
3. The reasons assigned in the application and to advance the cause of substantive justice, especially in para 6 of the application, the delay in preferring the Second Appeal deserves to be condoned.
4. Hence, the application stands allowed.
5. The delay of 131 days in preferring the Second Appeal stands condoned.
6. The application stands disposed.

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SECOND APPEAL (ST) NO. 17903 OF 2025

7. Heard the learned Counsel for the parties.
8. The following substantial question of law arises for consideration:
 - i) Having held that, the relief of partition was within the stipulated period of limitation, whether the Trial Court could have rejected the plaint by invoking the provisions contained in Order VII Rule 11 of the Code, on the ground that, the relief of partition was a subsidiary relief and the relief of declaration in regard to the instruments was the main relief and, thus, the suit was barred by limitation?
9. The Second Appeal be listed for hearing and final disposal after 18th March, 2026, at the stage of admission.
10. In the meanwhile, the appellants are at liberty to file private paper book containing the pleadings, deposition and documents before the Trial Court.

[N. J. JAMADAR, J.]