

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3931 OF 2026

Laik Ahmed Mohammed Nabi ... **PETITIONER**

: VERSUS :

Munir Ahmed Noor Mohammed Qureshi ... **RESPONDENT**

Mr. Vinayak R. Kumbhar, *for the Petitioner.*

Mr. R.P. Singh, *for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

DATED : 15 APRIL 2026.

P.C :

1) The petition challenges order dated 5 January 2026 passed by the Appellate Bench of the Small Causes Court rejecting MARJI No. 280/2025 filed for restoration of Appeal which was dismissed for want of prosecution.

2) I have heard Mr. Kumbhar, the learned counsel appearing for the Petitioner and Mr. Singh, the learned counsel appearing for the Respondent.

3) The Appellate Court has recorded following findings which depicts the manner in which the Appeal was argued by the Petitioner :

7. The Appeal arises from a suit of the year 2017, which has remanding pending for couple of years. In such a matter, the Court had granted repeated opportunities to the applicant. Ultimately, the appeal was posted for final arguments as a *last chance* on 23.04.2025. On that date, instead of advancing arguments, the applicant sought adjournment. Though the request was rejected, the Court, in its indulgence, imposed costs of Rs.5,000/- and still granted time to argue.

8. Even the indulgence did not evoke compliance. The costs were not deposited. Arguments were not addressed. Thereafter, when the matter was listed on 03.10.2025, the applicant again remain unprepared to argue and sought adjournment. No explanation was offered either for non-deposit of costs or for continued unreadiness to proceed with arguments.

4) I am in broad agreement with the findings recorded by the Appellate Bench while rejecting the restoration application. The real objective of the Petitioner was to drag the Appeal and enjoy the possession of the suit premises. Ordinarily, therefore this Court would have proceeded to dismiss the petition. However, on account of frequent request made to this Court for grant of opportunity to the Petitioner to prosecute the Appeal on merits and in view of willingness expressed to pay costs, in my view, one chance needs to be granted to the Petitioner for prosecuting the Appeal on merits, subject to payment of exemplary costs.

5) I accordingly proceed to pass the following order :

(i) Order dated 5 January 2026 passed in MARJI No. 280/2025 is set aside. Appeal No. 17/2024 is restored on the file of the Appellate Bench of the Small Causes Court.

(ii)Petitioner to pay costs of Rs.50,000/- to the Respondent within a period of 4 weeks. Payment of costs within the stipulated time shall be a condition precedent for restoration of the Appeal.

(iii)The Appellate Court shall accord due priority for expeditious disposal of the Appeal without entertaining any requests for adjournment on behalf of the Petitioner.

6) With the above directions, the petition is partly allowed and **disposed of.**

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[SANDEEP V. MARNE, J.]