



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.693 OF 2026

IN

FIRST APPEAL NO.1388 OF 2015

The Bombay Dyeing & Manufacturing
Company Limited

...Applicant/Appellant

Versus

Gorej B. Bharchania (since deceased)

Through legal heirs:

1a) Dhun Gorej Bharchania & Ors.

...Respondents

Ms. Neeta Jain a/w Ms. Anaisha Zachariah and Ms. Masira Lulania i/by
Negandhi Shah & Himayatullah for the Applicant/Appellant.

Mr. Sarosh Bharucha a/w Mr. Vipul Patel i/by Haresh Mehta & Co. for
the Respondents.

CORAM : JITENDRA JAIN, J.

DATE : 29 JANUARY 2026

P.C.:

1. This application is filed by the applicant-appellant seeking restoration of the appeal, which came to be dismissed by self-operative order dated 13 July 2022, since the paper book was not filed within six months.

2. The present application is filed on 20 January 2026 which is after more than 3 years. The learned counsel for the applicant-appellant states that this application ought to have been filed latest by 12 February 2023.

3. The learned counsel for the respondents tenders affidavit-in-reply, in which it is submitted that as per order dated 30 October 2015, the paper-book were to be filed within one year and this order has not

been disclosed by the applicant in the present application. He further opposes the restoration vehemently and states that the delay is not of three years, but should be counted from 2016.

4. I have heard learned counsel for the applicant and respondent.

5. One of the reasons given in the application is on account of Covid. The self-operative order dated 13 July 2022 gave six months' time, which expired on 12 January 2023. By this time, the Covid-19 pandemic was long over and even the extension granted by the Supreme Court also stood expired. Therefore, this reason of Covid cannot be accepted.

6. The other reason given is the inadvertence of the managing clerk of the advocate and the concerned advocate of not correlating the first appeal by its number and the name of the applicant-appellant-company. The same advocate continues today and has accepted the mistake.

7. In this case, the applicant has stated that it was on account of inadvertence of the advocate and the same advocate continues on record. Therefore, even today, it will be presumed that the applicant-appellant has no grievance against the advocate.

8. Insofar as the contention of learned counsel for the respondents on suppression is concerned, the applicant ought to have disclosed, but in any case these are the orders which are available on the official site of the High Court and furthermore 2015 order does not result into dismissal of the appeal. Therefore, the contention raised though relevant is inconsequential insofar as the present application is concerned.

9. For the reasons attributable to the advocate, in the facts of the present case, the applicant-appellant should not suffer. Therefore, the delay though not explained sufficiently is condoned and the first appeal is restored subject to payment of cost of Rs.30,000/- to be paid to Tata Memorial Cancer Hospital, Dr. Ernest Borges Road, Parel Mumbai - 400 012 within four weeks from today, failing which, the present order passed in the interim application would stand automatically withdrawn without reference to the Court.

10. Time to filing the paper-book is extended by a period of four weeks from today.

11. Interim application is allowed in above terms.

[JITENDRA JAIN, J.]