

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2156 OF 2026

IN

FIRST APPEAL NO. 1167 OF 2013

Shri Haresh Nagji Chheda

...Applicant /
Appellant

Versus

M/s. Bharat Petroleum Corporation Ltd.

...Respondent

Ms. Srushti Chalke i/by Mr. Drupad Patil for the Applicant /
Appellant.

S.R. Page a/w Ms. Eesha Jaifalkar, Ms. Archana Joglekar for the
Respondent-BPCL.

CORAM : R.I. CHAGLA J
ADVAIT M. SETHNA, J

DATE : 25 March 2026

ORDER :

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1. By this Interim Application, the Applicant / original
Appellant has sought for recall of the order dated 13th February 2026
passed by this Court by which the Appeal had been dismissed for
default.

2. The Applicant has stated in the Interim Application that the First Appeal had been listed on 30th January 2026 on which date none had appeared for the Appellant and accordingly, the matter had been kept on 13th February 2026 for dismissal. The Applicant states that due to inadvertence and *bona fide* mistake on behalf of the Applicant, the matter could not be attended on 13th February 2026, when it was called out and accordingly, it was dismissed for default. The Applicant states that absence of the Advocate for the Appellant / Applicant was neither deliberate nor intentional, but occurred due to oversight. The Applicant having no knowledge of listing and was under the *bona fide* belief that the matter was duly attended.

3. Having considered the averments in the Interim Application, we are inclined to grant prayer clause (a) of the Interim Application. However, prayer clause (b) of the Interim Application, which seeks to revive the orders passed in the Interim Application and First Appeal including but not limited to order dated 30th August 2013 passed in the captioned First Appeal cannot be granted.

4. The said order dated 30th August 2013 was an *ad-interim* order by which this Court had directed that the decree for

possession shall not be executed till the next date. Thereafter, Civil Application No. 3316 of 2013, filed in the captioned First Appeal, had come up. This Court vide order dated 22nd July 2014 had *prima facie* found that no case had been made out to grant interim relief in favour of the Applicant and rejected the Civil Application. The parties were directed to maintain *status quo* as on the date of the said order in respect of the subject plot for a period of four weeks.

5. This order was impugned by the Applicant before the Supreme Court and by order dated 25th August 2014 the Supreme Court dismissed the Special Leave Petition. In that view of the matter, there is no question of revival of the orders, in particular order dated 30th August 2013 passed in the First Appeal.

6. Accordingly, we grant prayer clause (a) of the Interim Application and pass the following order:-

(i) Order dated 13th February 2026 passed by this Court dismissing the First Appeal for default is recalled.

(ii) First Appeal No.1167 of 2013 along with the

Application filed in the First Appeal is restored to the file of this Court.

(iii) Interim Application is accordingly, disposed of with no order as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA J.]