

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

**INTERIM APPLICATION NO. 2485 OF 2026
IN
FIRST APPEAL (STAMP) NO. 12973 OF 2004**

Shaikh Bano Rasheed ... Applicant

IN THE MATTER BETWEEN :

Shaikh Bano Rasheed and Others ... Appellants

V/s.

Sahebrao Tukaram Dhumal and Others ... Respondents

Ms. Sangharshika P. Sonawane i/b Ms. Sultana Sonawane,
Advocate for the Appellants.

None for the Respondents.

**CORAM : ABHAY AHUJA, J.
DATE : 7th APRIL, 2026.**

P.C. :

1. This Interim Application seeks restoration of the First Appeal, which came to be dismissed for non-prosecution on 21st December 2023.

2. When the matter is called out, Ms. Sangharshika Sonawane, learned Counsel appears for the Applicant and submits that on the date on which the matter was listed, the Advocate on record was undergoing cardiac bypass surgery and therefore, could not remain present before this Court and also could not take the necessary steps in the matter, which resulted in dismissal of the First Appeal for non-prosecution.

3. Ms. Sangharshika Sonawane, learned Counsel draws this Court's attention to Exhibit-B, which contains the medical records evidencing the hospitalization for the said surgery. Learned Counsel submits that therefore this Court may restore the First Appeal, as the Appellant is a poor widow with minor children and was entirely dependent upon her Advocate for information regarding the status of the case. That as soon as the Applicant became aware of the dismissal for non-prosecution of the First Appeal, this Application has been filed *albeit* after a delay of 744 days, which in the interest of justice and in the circumstances of the case, be condoned. That this Court may accordingly allow the

Application and restore the First Appeal.

4. Perusal of the record does indicate that when the matter was listed on 21st December 2023, the Advocate Ms. Sultana Vishnu Sonawane was in the hospital, as the Discharge Summary does indicate the admission date as 14th December 2023 and the discharge date as 25th December 2023.

5. It is settled law that the case of litigant ought not to be dismissed due to the non-availability or difficulty faced by an Advocate or in short the fault of an Advocate.

6. Having heard the learned Counsel and having considered the submissions, this Court is of the view that the Interim Application be allowed. The delay in filing the said Application is condoned. First Appeal (Stamp) No. 12973 of 2004 is restored.

7. Interim Application accordingly stands allowed and disposed as above.

8. List the First Appeal on 16th June 2026.

(ABHAY AHUJA, J.)

Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
Date:
2026.04.09
11:24:53 +0530