



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

INTERIM APPLICATION NO. 1789 OF 2026
IN
TESTAMENTARY SUIT NO. 119 OF 2011
IN
TESTAMENTARY PETITION NO. 560 OF 2011

Sushila Babulal Anchalia

...Applicant

In the matter between :

Sushila Babulal Anchalia and Another

...Plaintiffs

Versus

Tejsingh Mansingh Baid

...Respondent

Mr. Allen Mathew, Mr. Mohammed Riyaz Khan i/b N. P. Wagh for Applicant in IA No. 1789 of 2026.

Mr. Gauraj Shah i/b Mr. Soham Desai for Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 30th APRIL, 2026

P. C. :

1. Interim Application has been preferred seeking recall of order dated 25th November, 2025 dismissing the Testamentary Petition for non-prosecution.
2. Learned counsel appearing for Applicant submits that during the pendency of Probate Petition, Plaintiff No. 2 had expired and Advocate lost track of Interim Application. He submits that thereafter, there was

change of Advocate and the matter could not be attended on 25th November, 2025 and therefore, there is delay in filing of the present Application.

3. Learned counsel appearing for Respondent would vehemently oppose the application and would submit that Plaintiffs are attempting to delay the entire proceedings and that there are several litigations which are pending between the parties.

4. Before this Court, the prayer today is seeking recall of order dated 25th November, 2025 which dismissed the Petition for non-prosecution. As the default in appearing before this Court is attributable to the Advocate on record, the litigant cannot be made to suffer for default on the part of Advocate. The explanation tendered is accepted.

5. Delay stands condoned.

6. Interim Application is allowed.

7. Testamentary Petition No. 560 of 2011 is restored to file along with Testamentary Suit No. 119 of 2011.

8. As the order of dismissal has been recalled, Interim Applications, if any, stand revived.

[SHARMILA U. DESHMUKH, J.]