



Swapnil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1222 OF 2010**

IN

SECOND APPEAL (ST.) NO. 11857 OF 1995

The State Of Maharashtra

and Ors.

...Applicants/Appellants

Vs.

Kesarimal Indrachand Oswal

and Ors.

...Respondents

WITH

SECOND APPEAL (ST.) NO. 11857 OF 1995

WITH

CIVIL APPLICATION NO. 486 OF 2016

WITH

CIVIL APPLICATION NO. 487 OF 2016

WITH

CIVIL APPLICATION NO. 488 OF 2016

WITH

CIVIL APPLICATION NO. 492 OF 2016

WITH

CIVIL APPLICATION NO. 495 OF 2016

WITH

CIVIL APPLICATION NO. 497 OF 2016

WITH

CIVIL APPLICATION NO. 504 OF 2016

WITH

CIVIL APPLICATION NO. 490 OF 2016

WITH

CIVIL APPLICATION NO. 500 OF 2016

WITH

CIVIL APPLICATION NO. 498 OF 2016

WITH

CIVIL APPLICATION NO. 491 OF 2016

WITH

**CIVIL APPLICATION NO. 493 OF 2016
WITH
CIVIL APPLICATION NO. 499 OF 2016
WITH
CIVIL APPLICATION NO. 501 OF 2016
WITH
CIVIL APPLICATION NO. 494 OF 2016
WITH
CIVIL APPLICATION NO. 489 OF 2016
WITH
CIVIL APPLICATION NO. 485 OF 2016
WITH
CIVIL APPLICATION NO. 502 OF 2016
WITH
CIVIL APPLICATION NO. 503 OF 2016
WITH
CIVIL APPLICATION NO. 505 OF 2016
WITH
CIVIL APPLICATION NO. 496 OF 2016**

Mr. D. J. Haldankar, AGP for the State/applicants.

CORAM : GAURI GODSE, J.

DATE : 15th APRIL 2026

ORDER :

1. On 7th April 2026, following order was passed :-

“1. This second appeal is pending on an application for condonation of delay.

2. The impugned decree is dated 31st March 1994. Respondent no.1 is the original plaintiff in whose favour there

is a decree directing defendant nos. 1 to 3, i.e. the appellants and defendant nos. 4 to 32 and 34 to handover the possession of the suit land in terms of resolution dated 13th March 1980 issued by the social welfare department of the State Government.

3. There is no interim relief granted in this second appeal. Office remark shows that the second appeal stands abated against defendant nos. 1 and 2. The second appeal stands dismissed or abated against almost all the defendants except defendant no.31. Various applications are filed by the appellants including the application for restoration of the civil application for condonation of delay.

4. Since this second appeal has remained pending since the year 1995, I called upon the learned AGP to point out whether the second appeal raises any substantial question of law. Since the decree was passed in 1994, the learned AGP seeks time to take instructions from the learned collector, Alibag as to whether the decree is already executed.

5. At the request of the learned AGP, stand over to 15th April 2026.

6. To be listed first on the board.”

2. Today learned AGP, on instructions, submits that the decree impugned in the second appeal is already executed and the occupants are already shifted as per the decree and the remaining land is handed over to the plaintiff.

3. In view of the aforesaid, nothing would survive in the main second appeal. Even otherwise, the proceedings stand abated against some of the defendants except defendant no.3. Though various applications for bringing on record the heirs and legal representatives are pending, no steps have been taken as per the office remarks to serve all the respondents.

4. Various orders passed by the learned Registrar (Judicial II) granting conditional time has operated and the proceedings stand abated or dismissed against most of the respondents. In such circumstances in view of the indivisible impugned decree, nothing would survive in the second appeal.

5. The interim application for condonation of delay is pending since 1994. There is a delay of 274 days in filing the

second appeal. Since the application stands abated or dismissed for non-prosecution against most of the respondents, this civil application is also dismissed on the ground that it would not survive against some of the remaining respondents.

6. In view of dismissal of the civil application for condonation of delay, the second appeal is dismissed.

7. All other pending civil applications/interim applications are disposed of as infructuous.

[GAURI GODSE, J.]