

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.546 OF 2026
IN
INTERIM APPLICATION NO.12673 OF 2023
IN
SECOND APPEAL NO.690 OF 2014

Shakerabanu Afsar Patel
Through Her Constituted Attorney
Nasir Nuruddin Patel ... Applicant

In the matter between
Parshuram Gundu Taral
Through Constituted Attorney,
Sanjay Parsu Koli (Taral) ... Appellant

V/s.
Sudhir Baburao Terwadkar
Since Deceased Through Heirs and LRs
& Ors. ... Respondents

WITH
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Sudhir Baburao Terwadkar
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WITH
INTERIM APPLICATION (STAMP) NO.82 OF 2026
IN
INTERIM APPLICATION NO.12673 OF 2023
IN
SECOND APPEAL NO.690 OF 2014

Shakerabanu Afsar Patel
Through Her Constituted Attorney
Nasir Nuruddin Patel ... Applicant

In the matter between

Parshuram Gundu Taral
Through Constituted Attorney,
Sanjay Parsu Koli (Taral) ... Appellant

V/s.

Sudhir Baburao Terwadkar
Since Deceased Through Heirs and LRs
& Ors. ... Respondents

Q. H. Kudle i/by S. G. Kudle for the applicant.
Mr. Gajanan M. Savagave with Mr. Giridhar S. Koli i/by
Mr. Prasad S. Kale for original appellant/non-applicant.

CORAM : ANIL L. PANSARE, J.

DATED : MAY 7, 2026

P.C.:

INTERIM APPLICATION NO.546 OF 2026

1. By present application, the applicant is seeking to condone the delay in filing an application to recall the order dated 10th July 2017 passed in Second Appeal No. 690 of 2014.

2. Learned counsel for the non-applicant/original appellant submits that the affidavit-in-reply has been filed online on 30th April, 2026. A copy thereof has been already served upon the learned counsel for the applicant, which the counsel admits. It, however, appears that the affidavit-in-reply is not traceable online. The counsel for non applicant has accordingly tendered across the Bar the affidavit-in-reply. Taken on record.

3. Heard both sides and having heard, what transpires is that the applicant was not a party to Second Appeal No. 690 of 2014. By the impugned order, my predecessor (Coram: S.J. Kathawalla, J.) was pleased to dispose of the second appeal in terms of the consent terms filed by the parties.

4. According to the applicant, the parties to the second appeal have played fraud upon the Court by filing the consent terms. It is his case that he had no knowledge of the consent terms or the impugned order dated 10th July 2017 passed by this Court. According to him, he acquired knowledge in the year 2021 when mutation proceedings were initiated. Thereafter, he approached this Court by filing a petition being Writ Petition No. 6555 of 2021. The same came to be dismissed as not maintainable vide order

dated 6th March 2023, with liberty to avail appropriate remedy. Thus, the applicant has come up with a case that he had no knowledge of the consent terms and the impugned order passed thereon in July 2017.

5. In this context, learned counsel for the non-applicant/original appellant has invited my attention to the order passed by the revenue authorities in multiple proceedings, to which the applicant herein was a party. The first such proceeding is RTS No. 455 of 2018 filed by the non-applicant/original appellant against the applicant and the original respondents. The original appellant had filed an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 against the judgment and order passed by the Sub Divisional Officer, Ichalkaranji in Review Application No. 7 of 2015. The Additional Collector, Kolhapur, before whom the appeal was filed, decided the appeal on 26th April 2018. In paragraph No. 3, he referred to the pendency of Second Appeal No. 690 of 2014 in the following terms:

“Against that decision, the appellant preferred second appeal before Hon’ble High Court & the delay for preferring appeal was condoned & Second appeal No.690/2014 was compromised wherein the consent terms made finalized & it is

agreed between both parties that the appellant is in actual & physical possession of the above property which is the suit property.....”

6. Thus, the judgment clearly shows that in the year 2018, by way of the judgment passed by the Additional Collector, Kolhapur, the parties, including the present applicant, were put to knowledge of Second Appeal No. 690 of 2014, as also the compromise entered into by and between the parties.

7. Another proceeding is RTS Second Appeal No. 925 of 2016. The appeal was filed by the present applicant. Respondent No. 1 therein (original appellant herein) had filed a say stating therein, in paragraph No. 4, that Second Appeal No. 690 of 2014 was filed and was decreed in terms of consent terms. This reply was filed in July 2017. The Additional Collector, Kolhapur, before whom the said appeal was pending, rendered a decision on 21st August 2017. In paragraph No. 4 of the judgment, reference is made to Second Appeal No. 690 of 2014, stating that the appellant herein had agreed to the relief of pre-emption.

8. Thus, the applicant was put to knowledge of pendency of Second Appeal No.690 of 2014, through this judgment as well.

9. Learned counsel for the non-applicant has then invited my attention to the list of documents dated 5th July 2019 filed by the non-applicant/original appellant in the Court of Civil Judge, Junior Division, Kurundwad in Regular Civil Suit No. 80 of 2010. The said suit has been filed by the non-applicant/original appellant against the present applicant for cancellation of the sale deed executed by the original owner in favour of the present applicant. By way of list of documents, the non-applicant/original appellant had placed before the Court a copy of the order dated 10th July 2017 (impugned order herein) as also the consent terms.

10. This is yet another document which can be said to be a document by which the applicant was put to knowledge of the pendency of the second appeal as also the consent decree passed therein.

11. There are other documents as well in the form of written notes of arguments which the non-applicant/original appellant filed before the revenue authorities, disclosing the pendency of Second Appeal and the consent decree. The applicant has not disclosed in the present application these events; rather, a false

plea has been taken that he came to know of the impugned judgment and the consent terms only in the year 2021.

12. The counsel for applicant submits that the advocate who appeared in these revenue proceedings did not apprise of the developments to the applicant.

13. Such a plea, without any evidence and without affording an opportunity to the counsel to contest the plea, cannot be accepted. This practice of blaming counsels appearing before the Court/authorities below, without any evidence in support, must not be encouraged.

14. What is apparent is, the false plea taken by the applicant to get rid of bar of limitation is writ large.

15. The Hon'ble Supreme Court in the case of *Pundlik Jalam Patil vs . Executive Engineer, Jalgaon Medium Project and another*, reported in *(2008) 17 SCC 448*, while dealing with the party taking a false plea has held that incorrect statement made in the application seeking condonation of delay itself is sufficient to reject the application without any further inquiry as to whether the averments made in the application reveal sufficient cause to condone the delay. The Hon'ble Supreme Court, further, held that

a party taking a false stand to get rid of the bar of limitation should not be encouraged to get any premium on the falsehood on his part by condoning delay.

16. In the present case, there is material to indicate that the applicant has knowingly made false statement. That being so, I need not delve upon the other details. The application is liable to be rejected on this count itself. The application is accordingly rejected.

INTERIM APPLICATION NO.12673 OF 2023

17. In view of disposal of Interim Application No.546 of 2026, the application seeking to restore the second appeal stands disposed of.

INTERIM APPLICATION (STAMP) NO.82 OF 2026

18. In view of disposal of Interim Application No.546 of 2026, the application seeking stay/injunction stands disposed of.

(ANIL L. PANSARE, J.)