

ITEM NO.7

COURT NO.16

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 8746/2026

[Arising out of impugned judgment and order dated 05-12-2025 in IA(ST) No. 34497/2025 passed in FA No.311/1997 by the High Court of Judicature at Bombay]

ROSY MOSES JOSEPH & ANR.

Petitioner(s)

VERSUS

FEROZA P DRIVER & ORS.

Respondent(s)

FOR ADMISSION, IA No. 122566/2026 - CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS

Date : 28-04-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.V. VISWANATHAN

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Ashok Kumar Singh, Adv.
Mr. Awanish Sinha, AOR
Mr. Prem Ranjan Kumar, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Heard Mr. Ashok Kumar Singh, learned counsel for the petitioners.
3. Learned counsel for the petitioners submits that on 14.02.1997 the Short Cause Suit No. 18/1979 filed by respondent no. 1/original plaintiff was decreed by the Civil Judge.
4. Aggrieved by the judgment and decree of 14.02.1997, the petitioners had filed first appeal bearing No.311/1997 before

the High Court of Judicature at Bombay. The appeal was filed in March, 1997.

5. Thereafter, in view of the certain substitution application(s), the listing of the appeal was delayed.

6. Ultimately, on 11.10.2010 first appeal was admitted and notice was issued to the respondent(s). Thereafter, the first appeal was in cold storage. On 24.01.2019 along with 1493 matters, first appeal No. 311/1997 filed by the petitioners was listed at serial no. 998. This listing was overlooked by the office of the petitioners. The High Court directed supply of paper books in accordance with the High Court Appellate side Rules. In view of the order of 24.01.2019 and the non-compliance in the supply of paper books, the first appeal No.311/1997 was peremptorily dismissed. On 19.09.2025, the present application i.e. I.A. No. 34497/2025 was filed to recall the order and condoning the delay in filing the application and to restore the appeal.

7. According to the petitioners, they filed the application as soon as they came to know that the appeal had been peremptorily dismissed and till then, they were under the impression that the appeal is pending. This application has been dismissed by the High Court by a short order of three lines stating that there is delay of 5 years and 238 days.

8. On condition that a cost of Rs.50,000/- be deposited before the Registry of this Court towards litigation expenses for the respondent(s), let notice be issued to the respondent(s), returnable on 28th May, 2026.

9. Upon receipt, the said sum be invested in a FDR for a short term period in a Nationalized Bank on auto renewal basis.

10. Dasti, in addition, is permitted.

11. List on 28th May, 2026.

(NIRMALA NEGI)
ASTT. REGISTRAR-cum-PS

(MANOJ KUMAR)
COURT MASTER (NSH)