

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION No. 1096 OF 2015
IN
FIRST APPEAL (ST) No. 7006 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Y. K. Tiwari i/b. K. P. Tiwari & Co. for the Applicant

Mr. A. K. Nandanwar for Municipal Corporation.

CORAM : K. K. TATED, J.

DATE : MARCH 12, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is preferred by the Plaintiff for condonation of 41 days delay in filing the First Appeal challenging the order dated 12/12/2014 passed by the Bombay City Civil Court, Mumbai by which a suit filed by the Plaintiff was dismissed. The learned counsel for the Applicant submits that the Appellant filed L.C.Suit No.3662/2007 in Bombay City Civil Court, Mumbai challenging the notice issued by Respondent No.1 under section 53(1) of the MRTP Act, 1966 and for other reliefs.

3. The learned counsel for the Applicant submits that he received instructions from his client that they do want to press the present appeal. He submits that they want to make an appropriate Application to the Corporation for change of user of the suit premises i.e. ground floor, shop No.3 (incorrectly mentioned as garage No.1) admeasuring 15 x 30, Building F Vardhaman Nagar CHS Ltd., Sy. No.307, Dr. R. P Road, Mulund (W), Mumbai – 400 080. He submits that in the present proceedings, ad-interim relief was granted by the Trial Court on 11/10/2007 in Notice of Motion No.3421/2007.

4. He seeks permission to withdraw the appeal as well as the Civil Applications with liberty to file an appropriate Application with the Corporation for change of user of the suit premises. Hence, the following order:

a) The First Appeal as well as the Civil Applications stand dismissed as withdrawn.

b) The Appellant is permitted to make an appropriate Application to the Respondent Corporation within 4 weeks from today for change of user of the suit premises.

c) If an Application is made within stipulated time as stated hereinabove, the Respondent Corporation is directed to decide the same on its own merits within 8 weeks from the date of receipt of the said Application.

d) The Corporation is directed to communicate the order on the Application for change of user in writing either to the Applicant or their Advocate.

e) Till communication of the decision, ad-interim relief granted by the Trial Court on 11/10/2007 in Notice of Motion No.3421/2007 to continue.

f) If an Application is not filed within stipulated time as stated hereinabove, the Corporation is entitled to take action against the Appellant according to law.

JUDGE