

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1188 OF 2015
IN
FIRST APPEAL NO.836 OF 2013

National Eggs Sales Centre
through proprietor Parshuram
Pandurang Tike (deceased)
through Lrs. Smt. Sunanda Parshuram
Tike and Ors. .. Applicants

-Versus-

Chitra Chicken Centre
through Proprietor Kantilal Shantilal
Pardeshi .. Respondent

Mr.Manoj Badgujar i/b. Umesh Mankapure for applicants
Ms.Vallari Jadhav i/b. D.V.Sutar for respondent.

CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

1] Heard the learned Counsel for the parties. This application is preferred by the defendants for restoration of First Appeal No.836 of 2013, which was dismissed in view of the conditional order dated 12th March 2014.

2] Learned Counsel for the applicant submits that as per the order dated 12th March 2014, this Court directed the applicant to

serve a copy of the first appeal along with annexures and copy of civil application on respondent's Advocate within three weeks. He submits that actually they complied with the order within the stipulated time but failed to file appropriate affidavit of service in the Registry. Hence, the matter stood dismissed.

3] Considering the submissions made by the learned Counsel for the applicant and the averments made in the civil application, I am satisfied that the applicant has made out a case for allowing the civil application. Accordingly, the civil application is allowed in terms of prayer clauses (b) and (c), which read thus:-

“(b) this Court be pleased to condone the delay of 317 days in filing the present application;

(c) this Court be pleased to recall the conditional order dated 12th March 2014 passed by this Court and restore the aforesaid first appeal in its original position.”

(b) Civil application is disposed of.

(K.K.TATED, J.)