

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.506 OF 2015
IN
APPEAL FROM ORDER NO.1094 OF 2004**

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.S.P.Kanuga i/b Mr.H.P.Vyas for the applicant

Mr.Ashish Mishra i/b Mr.N.K.Mudnaney for the respondent nos.1 and 2

CORAM : K.K.TATED, J.
DATED : 14/07/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by defendant for restoration of Appeal from Order No.1094 of 2004 which was dismissed for want of prosecution by order dated 4.10.2012.
- 3 On the other hand, the learned Counsel for the respondent vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for condonation of 2 ½ years delay in filing the present Civil Application. Hence, there is no substance in the present Appeal from Order and same be dismissed with costs
- 4 Considering the submissions made by the

learned counsel for the Applicant and the averments made in Civil Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

A) Civil Application is allowed in terms of prayer clause (a), (b) and (c) which read thus:

“(a) that the order dated 4.10.2012 dismissing the Appeal from Order for default of appearance be set aside and matter be restored on file.

(b) That the applicant be allowed to be substituted as a legal representative of the deceased Appellant and accordingly be brought on record in proceeding and be allowed to carry out consequential necessary amendment.

(c) Delay of 2 years 108 days be condoned.”

B) Civil application stands disposed off accordingly.

(K.K.TATED, J.)