

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

CIVIL APPLICATION NO.2054/2014

IN

FIRST APPEAL NO.1049/2013

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. C. K. Tripathi i/b. Arun K. Roy for the Applicant
Mr. Santosh Sadanand for the Respondent No.2.

CORAM : K. K. TATED, J.

DATE : JULY 15, 2015

P.C.:

1. Heard the learned counsel for the Applicant and Respondent No.2. None for other Respondents, though served.

2. This Application is for restoration of the First Appeal which was dismissed for default by order dated 05/03/2014. The present Civil Application is filed for restoration on 26/03/2014.

3. The learned counsel for the Respondent No.2 vehemently opposed the Civil Application. He submits that in other connected matter also, the Advocate for the Appellant remained absent when the matter was called out and that matter was dismissed for default and thereafter same was restored, on payment of cost of Rs.10,000/-. In the

present matter also, the court should impose the cost on the Applicant.

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

5. At the same time, the Applicant has to pay cost of Rs.750/- to the Respondent No.2 or their Advocate, within 3 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

6. Hence, the following order:

- a) Order dated 05/03/2014 passed by this court is recalled.
- b) First Appeal is restored to file for hearing on its own merits.
- c) The Applicant to pay cost of Rs.750/- to the Respondent No.2 or their advocate, within 3 weeks from today.
- d) Civil application stands disposed off accordingly.

JUDGE