

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

**CIVIL APPLICATION NO. 1709 OF 2015
IN
CIVIL APPLICATION NO.4176 OF 2014
IN
FIRST APPEAL NO. 2025 OF 2006**

Smt. Anusaya Dashrath Janvekar ..Applicant

Vs

Shri Shamrao Baburao Satale .. Respondent

Mr. Harshad Shingapurkar, Advocate for Applicant.
Mr. Amit Gharte, Advocate for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 07/05/2015

PC:

1. As the regular Court presided over by Honourable Mr. Justice K.K.Tated is not available, as per Administrative order passed by Honourable Chief Justice, this matter is placed before me.
2. Not on Board. At the request of Mr. Shingapurkar, taken up in production Board.
3. Heard Mr. Harshad Shingapurkar, learned counsel for the applicant and Amit Gharte, learned counsel for the respondent.
4. By this Application, the applicant has prayed for extension of time for filing private paper book as per order

dated 11.3.2015. Mr. Shingapurkar submitted that after hearing both sides, First Appeal was admitted on 31.1.2007. By that order, the applicant was directed to file private paper book within one year from the date of the order and if compliance was not made within the stipulated time, Appeal was to stand dismissed for want of prosecution without further reference to the Court.

5. He submitted that since paper book was not filed within one year, he took out Application No.4176 of 2014. On that application, Rule was issued on 11.3.2015. Bhatta charges were ordered to be paid within the stipulated time, failing which Civil Application was to stand dismissed without further reference to the Court. He submitted that if Bhatta charges were not paid, Civil Application No.4176 of 2014 stood dismissed.

6. Mr. Shingapurkar assures that on or before 15.6.2015 he will file private paper book and serve copy in advance on the other side.

7. For the reasons stated in the application which are not controverted as also in view of the decision of the Apex Court in the case of Kalipada Das V Bimal Krishna Sen Gupta, AIR 1983 S.C 876, wherein it is held that “supplying paper-books is a procedural requirement devised to facilitate rendering

justice. In other words, it is a procedural step in aid of justice and not substantive justice itself. Undoubtedly, Court's orders have to be obeyed. The institution of judiciary may not be able to function if there is no sanction behind the court's order. But penalty of failure to comply with Court's order providing a procedural stage in aid of justice must be commensurate with the gravity of the lapse. If the penalty imposed is disproportionate to the gravity of the lapse or omission, the procedural stage instead of becoming a step in aid of justice would be road block of justice", I am of the opinion that Appeal requires to be restored to file. That apart, First Appeal was admitted after hearing both sides. For all these reasons, Civil Application is allowed in terms of prayer clauses (a) and (b), with no order as to costs.

8. The applicant shall now file private paper book on or before 15.6.2015 and serve copy in advance on the other side. Time stipulated in the order dated 31.1.2007 is extended upto and inclusive of 15.6.2015.

(R.G.KETKAR, J.)