

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

**CIVIL APPLICATION NO.931 OF 2015
IN
APPEAL FROM ORDER (ST) NO.27133 OF 2014**

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.Suraj Kudalkar for the applicant

Ms.Hina A. Modi for the respondent

CORAM : K.K.TATED, J.

DATED : 06/07/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by defendant for restoration of Appeal from Order which was dismissed in view of conditional order dated 13.1.2015 passed by this court.
- 3 The learned counsel for the respondent vehemently opposed the present Civil Application. She filed Affidavit-in-Reply dated 1.7.2015.
- 4 The learned counsel for the respondent submits that applicant has not shown sufficient cause for condonation of delay and for restoration of Appeal from Order which was dismissed in view of conditional order dated 13.1.2015. She further

submits that the applicant in paragraph 6 and 7 of Civil Application, applicant has made a contrary statement. In paragraph 6, it is stated that they received email on 11.6.2015 and in paragraph 7 it is stated that he received true copy of order on 16.6.2015. Hence, there is no substance in the present Civil Application and same be dismissed.

5 I have heard both the sides at length.

6 On 13.1.2015 when this court had passed conditional order at that time office note shows that the notice issued to the respondent returned with bailiffs remark 'Not found and the premises was found locked.' Thereafter the applicant took some time to find out current address of respondent.

7 Considering the submissions made by the learned counsel for the Applicant and the averments made in the paragraph 6 and 7 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

a) Appeal from Order (ST) No.27133 of 2014 is restored on file by recalling the earlier order dated 13.1.2015 to that extent.

b) Advocate for the respondent accepts service of Appeal from Order ((ST).) No.27133 of 2014.

- c) Advocate for the appellant is directed to serve papers and proceedings of Appeal Memo as well as Civil Application on respondent's advocate within one week from today.
- d) Civil application stands disposed of accordingly.
- e) Three weeks time is granted to the appellant to remove all office objections in Appeal from Order failing which Civil Application shall stand dismissed without referring back to the court.

(K.K.TATED, J.)