

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

CIVIL APPLICATION NO.4270 OF 2013
IN
FIRST APPEAL NO.336 OF 1989

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. V. S. Kapse for the Applicant
None for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 25, 2015

P.C.:

1. Heard the learned counsel for the Applicant.
None for the Respondent though served.

2. This Application is preferred by the claimants for restoration of the present appeal which was dismissed for default in view of order dated 21/11/2008. The learned counsel for the Applicant submits that the Applicant learnt about the dismissal of the appeal in the month of June 2013. When he tried to contact his earlier Advocate Mr. S. M. Kapse, at that time he learnt that Mr. Kapse expired on 23/06/2009. Thereafter, the Applicant engaged the present Advocate and filed Application for restoration of the First

Appeal. He submits that they have good chance of success in the present appeal. He submits that if the Application is not allowed, the Applicant will suffer irreparable loss, harm and injury. He submits that the appeal is filed by the claimants for enhancement of the compensation awarded by the MACT, Mumbai in Application No.1369/2008.

3. Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in paragraph 3 and 4 of the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

4. Hence, the Civil Application is allowed in terms of prayer clauses (a) and (b) which read thus:

a) This Hon'ble Court may be pleased to condone the delay of 4 years and 6 months in filing the present Application.

b) This Hon'ble Court may be pleased to quash and set aside the order dated 21.11.2008 passed by this Hon'ble Court in First Appeal No.336/1989 and restore the present First Appeal No.336/1989 to file of this Hon'ble Court.

5. Office is directed to issue notice to the Respondent in First Appeal No.336/1989 stating that the First Appeal is restored to file, returnable after 12 weeks.

6. In addition to usual mode of service, the Applicant is directed to serve the Respondent by way of private notice either by RPAD and/or by hand delivery and to file an affidavit of service to that effect on or before next date.

c) If bhatta charges are not paid within stipulated time, the First Appeal shall stand dismissed without further reference to the court.

d) Civil Application stands disposed off accordingly.

JUDGE