

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

CIVIL APPLICATION NO.2479/2015
IN
FIRST APPEAL NO.565/2007

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. M. V. Vaidya - Applicant in person.
Mr. T. J. Pandian for the Respondent.

CORAM : K. K. TATED, J.
DATE : JULY 31, 2015

P.C.:

1. Heard. This Application is preferred by the original Respondent party in person for an order of declaration that the Appellant filed their Affidavit-in-Reply dated 13/07/2015 in Civil Application No.1546/2015 beyond the time granted by this court by order dated 26/06/2015, hence, same cannot be taken on record.

2. The Applicant party in person submits that as per order dated 26/06/2015 passed by this court in Civil Application No.1546/2015, he served amended copy of the Civil Application on the Appellant on 06/07/2015. He submits that the last date for filing the reply was 13/07/2015 but the

same was filed by them on 14/07/2015. Hence, same should not be accepted.

3. On the other hand, the learned counsel for the Appellant filed their Affidavit-in-Reply dated 20/07/2015 in this Civil Application. Same is taken on record. It is the case of the Appellant that their Advocate was out of Mumbai from 03/07/2015 to 08/07/2015. In support of this contention, the Appellant placed on record a copy of ticket Exhibit-B, at page 11 of the affidavit-in-reply. The learned counsel for the Appellant submits that in view of these facts and the reasons disclosed by them in their affidavit-in-reply, in fact there is no delay in filing the Affidavit-in-Reply as per order dated 26/06/2015 passed by this court. He submits that as per the provisions of General Clauses Act 1897, the reply filed on 14/07/2015 is within time. He further submits that if this court comes to conclusion that there is delay on the part of the Appellant, same may be condoned in view of the reasons disclosed by them in the Affidavit-in-Reply.

4. Heard both sides at length. It is to be noted that in the present proceedings the Affidavit-in-Reply in Civil Application No.1546/2015 affirmed

by the Appellant on 13/07/2015 and filed in this court on 14/07/2015. Considering the reasons disclosed by the Appellant in their Affidavit-in-Reply and as per the General Clauses Act, 1897, I am of the opinion that the reply filed by the Appellant was within time. Hence, the Civil Application stands rejected.

5. At the request of the Applicant in person, Office is directed to place the Civil Application No.1546/2015 on board as per CMIS date.

JUDGE