

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

**CIVIL APPLICATION NO. 1452 OF 2015
IN
FIRST APPEAL (ST.) NO. 25230 OF 2014**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Ms. Kanchan Gupta with Rajiv Jadhav i/b Vigil Juris for the applicant.

Mr. Mohit Arora with Gunjan Shah i/b M/s. Desai & Diwanji for the respondent.

CORAM : K. K. TATED, J.

DATED : 22/04/2015.

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by defendant for condonation of 65 days delay in filing First Appeal challenging the Judgment and Decree dated 09.05.2014 passed by Bombay City Civil Court at Bombay in Suit No. 7001 of 1997.

3 The learned Counsel for the applicant submits that Mrs. Panna Khatau who was supposed to sign the pleading before this court was not keeping well and therefore, there is delay in filing present First Appeal. She submits that applicant has good chance

of success in the present proceeding. She submits that if delay is not condoned, irreparable loss and injury will be caused to the applicant. Hence, Civil Application may be allowed.

4 On the other hand, the learned Counsel for the respondent vehemently opposed the present civil application. He submits that applicant has not shown sufficient cause for condonation of 65 days delay. He submits that though the applicant has stated in paragraph 12 of Civil Application that Mrs. Panna Khatau was not keeping well but they have not placed on record any medical report to support their case. He submits that applicant in paragraph 13 of the Civil Application stated that there is no delay in filing Civil Application. Hence, there is no substance in the civil application and same be dismissed with costs.

5 I heard both the sides at length.

6 Considering the submissions made by learned counsel for the applicant and averments made in civil application, I am satisfied that applicant has made out the case for allowing the civil application.

7 Hence, the following order.

i) Civil application is allowed in terms of

prayer clause (a), which reads thus:

“a) This Hon'ble Court may be pleased to condoned the delay of 65 days in filing the said First Appeal.”

ii) Applicant to pay cost of Rs.5,000/- to the respondents plaintiffs or their Advocate within six weeks from today.

iii) Civil Application is disposed of accordingly.

(K.K.TATED, J.)