

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

CIVIL APPLICATION NO.2134 OF 2012
IN
FIRST APPEAL NO.2420 OF 2005

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. J. G. Reddy for the Applicant
Mr. H. G. Misar for the Respondent No.2.

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

P.C.:

1. Heard. Office note shows that the Civil Application stood dismissed against Respondent No.1.

2. This Application is preferred by claimant for restoration of the present appeal which was dismissed in view of the conditional order dated 12/02/2008 for non payment of bhatta charges.

3. The learned counsel for the Applicant submits that because of mistake on the part of the Clerk, bhatta charges were not paid within stipulated period. He submits that the Applicant has good chance of success in the present matter.

He submits that because of mistake on the part of the Advocate's office, litigant should not suffer. In the interest of justice, this Hon'ble Court be pleased to allow the present Civil Application and hear the appeal on its own merits.

4. The learned counsel for the Respondent No.2 Insurance Co. vehemently opposed the Civil Application. He submits that the Applicant has not shown sufficient cause for condonation of more than 3 years and 200 days delay in preferring the Civil Application. He submits that the Applicant has not shown any reasonable cause as to why the Clerk of the Advocate has not paid bhatta charges within time. Hence, there is no substance in the present Civil Application. Same be dismissed with costs.

5. It is to be noted that because of mistake on the part of office of the Advocate, litigant should not suffer. In the present matter, there is delay of more than 3 years in preferring the Civil Application.

6. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied

that the Applicant has made out a case for allowing the present Civil Application. At the same time, the Applicant to pay cost of Rs.2500/-. Cost to be paid in the office of Kirtikar Law Library, High Court, Bombay within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

7. Hence, the following order:

- a) Delay in preferring the Civil Application is condoned.
- b) The Applicant to pay bhatta charges as per order dated 12/02/2008 within 3 weeks from today.
- c) The Applicant to pay cost of Rs.2500/-. Cost to be paid in the office of Kirtikar Law Library, High Court, Bombay within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- d) The learned counsel for the Respondent No.2 Insurance Co. waives service in the first appeal.
- e) Civil application stands disposed off accordingly.

JUDGE