

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

**CIVIL APPLICATION NO.1580 OF 2014
IN
SECOND APPEAL NO.7 OF 2006**

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.Madhav Jamdar for the applicant

Mr.Deepak Lad i/b Mr.Umesh Mankapure for the respondent nos.1 to 3

CORAM : K.K.TATED, J.
DATED : 02/09/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by defendant for restoration of Second Appeal No.7 of 2006 which was dismissed in view of conditional order dated 28.3.2006 for non-filing of private paper book within stipulated time.
- 3 The learned counsel for the applicant submits that inadvertently it remained on the part of the applicant to take appropriate steps for filing of private paper book. He submits that private paper book is ready. He undertakes to file the same within two weeks from today. He submits that applicant has good chance of success in the present

matter. He submits that if Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant.

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 more than 8 years 198 days delay in filing the present Civil Application. Hence, there is no substance in the present Civil Application and same may be dismissed with costs.

5 I have heard both the sides at length. In the present proceeding, applicant is 75 years old. In paragraph 4 of the Civil Application, it is specifically stated that inadvertently it remained on the part of applicant to take appropriate steps for filing private paper book. In any case, the learned counsel for the applicant makes a statement that he is ready and willing to file paper book within two weeks from today.

6 Considering these facts, I am of the opinion that applicant has made out a case for allowing the Civil Application but at the same time, applicant has to pay cost of Rs.5,000/- to the respondent. Hence, following order is passed:

- a) Delay in preferring Civil Application is condoned.
- b) Second Appeal No.7 of 2006 is restored on

file.

c) Time is extended till 25.9.2015 to comply the order dated 28.3.2006, failing which Civil Application shall stand dismissed without referring back to the court.

d) Civil application stands disposed off accordingly.

(K.K.TATED, J.)