

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

**CIVIL APPLICATION NO. 2053 OF 2014
IN
FIRST APPEAL NO. 1335 OF 2010**

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. Sandesh Deshpande for the applicant.

Mr. J. J. Bardeskar for the respondent nos. 2 and 3.

CORAM : K. K. TATED, J.

DATED : 03/02/2016

P.C.:

. Heard learned Counsel for the parties.

2 Though, the other respondents are duly served, no one appeared on behalf of them when the matter called out.

3 This application is preferred by Insurance Company for restoration of First Appeal No. 1335 of 2010, which was dismissed in view of conditional order dated 30.08.2010 passed by this Court for non filing of private paper book.

4 The learned counsel for the applicant submits that inadvertently, it remained on their part to file the private paper book. He submits that private paper book is ready. He undertakes to file the same within two weeks from today.

5 On the other hand, the learned counsel for the Respondent Nos. 2 and 3 vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for condonation of delay in filing the present Civil Application. He submits that there is no substance in the civil application. Hence, civil application be dismissed with costs.

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. But, at the same time, applicant has to pay cost of Rs.2000/- to the Respondent Nos. 2 and 3 within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

7 Hence, following order is passed:

a) First Appeal No. 1335 of 2010 is restored on file for hearing on its own merits.

b) Order dated 30.08.2010 passed by this Court is recalled to the extent of conditional order.

c) Applicant to file private paper book within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

d) Applicant either to deposit sum of

Rs.2000/- in the Registry and/or to pay to the Advocate for the Respondent Nos. 2 and 3 by way of cost within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

e) If cost is deposited in the Registry within stipulated time as stated hereinabove, then Respondent Nos. 2 and 3 is entitled to withdraw the same without furnishing any security.

f) Civil application stands disposed off accordingly.

(K.K.TATED, J.)