

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1526 OF 2016
IN
FIRST APPEAL NO. 234 OF 2014

1. Subhash Ramshiromani Yadav & Ors.Appellants
(Orig. Appellant)

IN THE MATTER BETWEEN :-

1. Subhash Ramshiromani Yadav & Ors.	Appellants
V/s.	
1. Umashankar Mahadev Yadav	Orig. Plff/ Resp. no.1.
2. Mumbai Building Repair and Reconstruction Board	Orig.Defd/ Resp.no.2

* * * * *

Mr. Vikas Pandey i/by. Vivek B. Pandey, Advocate for the applicant.

CORAM :- Smt. R.P. SondurBaldota, J.

22nd April, 2016.

P.C. :-

1). This Civil Application is for restoration of the First Appeal which was dismissed for default on 13th October, 2014. The Appeal was filed on 30th September, 2013. Thereafter, it appeared on board for the purpose of admission on a couple of dates. On 5th May, 2014 because nobody appeared for the appellant, it was adjourned for dismissal to 7th October, 2014. Even then, none appeared for the appellants and it came

to be adjourned to 13th October, 2014 by way of a further opportunity. On 13th October, 2014 also none appeared and the First Appeal came to be dismissed for default. The present application for restoration has been filed on 19th November, 2015. There is delay of 495 days in filing the application.

2). The application has been made and signed by the Constituted Attorney of the applicants. He claims that, at the relevant time he was taking treatment for “Major Depressive Disorder”. He was being treated in OPD from 19th November, 2013 in Brihanmumbai Mahanagarpalika B.Y.I. Nair Ch. Hospital and T & N Medical College for illness. Any personal difficulty of the Constituted Attorney of the applicants would be absolutely irrelevant. It was always possible for the applicants to give power of attorney to some other person for filing the present application. Besides, it was also necessary for the applicants to point out as to how the Constituted Attorney was prevented from attending to the matter on account of the illness claimed. There is no explanation for the negligence on the part of the learned Advocate for the applicants in attending to the matter. Thus, there is no case made out for restoration of the First Appeal. The Civil Application is dismissed.

(SMT. R.P. SONDURBALDOTA, J)