

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1555 OF 2016

IN

CIVIL APPLICATION NO. 3688 OF 2012

IN

FIRST APPEAL NO. 1140 OF 2014

Mohammed Alim J. Shaikh

.....Applicant

IN THE MATTER BETWEEN :-

Mohammed Alim J. Shaikh

.....Appellant

V/s.

1. The Municipal Corporation of
Greater Bombay & Ors.

.....Respondents

* * * * *

Mr. P.J. Thorat a/w. Ms. Pratibha Shelke i/by. Ms. Pranali Kakade,
Advocate for the applicant.

Mrs. M.R. Bhoir, Advocate for respondent no.1, BMC.

Mr. Monil Punjabi i/by. VND & Associates, Advocate for respondents
no.2 to 4.

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

22nd April, 2016.

P.C. :-

1) This Civil Application is for restoration of Civil Application No. 3688 of 2012 after condoning the delay of 36 days in filing the application for restoration. Mr. Thorat, the learned Advocate for the

applicant submits that, dismissal of the Civil Application was *infact* erroneous since it is not in accordance with the order dated 13th January, 2016. By that order, the applicant was directed to serve copy of the appeal memo alongwith the annexures thereto upon the Advocate for the respondents within one week from the date of the order, failing which the Civil Application was to stand dismissed without further reference to the Court. All the respondents were served on 20th January, 2016 i.e. on the last date of the period available to the applicant. The applicant has annexed copies of the acknowledgements of the receipts of the appeal memo to the application. Both the acknowledgements, specifically state the date of 20th January, 2016 as the date of receipt of the proceedings. In that circumstance, there was complete compliance order dated 13th January, 2016 by the applicants and the office could not have treated the Civil Application as dismissed for non-compliance of the order dated 13th January, 2016. Hence, the Civil Application is allowed in terms of prayer clauses (a) and (b). Office to place Civil Application No. 3688 of 2012 on board on 10th June, 2016 for hearing. The ad-interim reliefs granted to the appellants which is operative till today is extended till the next date of the Civil Application.

(SMT. R.P. SONDURBALDOTA, J)