

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2927 OF 2013
IN
FIRST APPEAL NO. 1541 OF 2011

Vijay Jayantilal Shah ... Applicant
Vs.
Pawan Ishwariprasad Shah ... Respondent

Mr. Sachin Khandagale i/b. M/s. Ram & Co., Advocate for the applicant.
Mr. B.A. Lawte i/b. Dilip Bodake, Advocate for the respondent.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 15th January, 2016.

P.C.:

This Application is moved for restoration of First Appeal No. 1541 of 2011 with a prayer that the order dated 24th August, 2011 passed by this Court be set aside.

2. The learned counsel for the applicant has submitted that the Appeal was admitted on 24th August, 2011 with a direction that the appellant shall file a paper book within one year from that date. The appellant could not file the paper book. The learned counsel submitted that the clerk who was looking after the matter has misplaced the brief and then he was sick, therefore, there is a delay but the Appeal is to be restored. It is prayed that the valuation of the suit is not exceeding Rs.1 crore and hence, the Appeal be transferred to District Court, Pune due to enhancement of pecuniary

jurisdiction of the District Court.

3. The learned counsel for the respondent vehemently opposed the Application. He submitted that the reasons given in the Application are not correct. There is no sufficient justifiable cause to restore this matter.

4. The Appeal is already admitted on 24th August, 2011. It appears that the Appeal was dismissed because the appellant could not file the paper book within the stipulated period. Considering the reasons for dismissal of Appeal and the reasons given therein in the application for delay and non-compliance, the impugned order is hereby set aside and the Appeal is restored to its original file. This restoration application is therefore, treated as Review Petition as per the order passed by the First Court of this Court on 6th April, 2012 in Writ Petition (L) No. 228 of 2012 in Vikas Baburao Sonawane vs. State of Maharashtra & Ors. Restoration Application is converted as Review Petition.

5. In view of the enhancement in the jurisdiction of the District Court as per the notification issued by the Law and Judiciary Department, Government of Maharashtra under Maharashtra Civil Courts (Amendment) Act, 2015 bearing No.CCS.2014/C.R.25/D19 dated 31.8.2015, the Appeal

alongwith Civil Application, is transferred to District Court, Pune. Registrar (Judicial) to take note of the same and do the needful by 31st January, 2016. Parties to appear before the District Judge to whom the matter is assigned on 9th February, 2016. at 11 a.m. Paper book can be submitted before the District Judge on that date.

6. The appeal and the application are disposed of as transferred.
7. All concerned to act on an authenticated copy of this order.

(MRIDULA BHATKAR, J.)