

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

CIVIL APPLICATION NO.3419 OF 2016

IN

FIRST APPEAL NO.165 OF 2008

Maharashtra State Road Transport Corporation .. Applicant

IN THE MATTER BETWEEN

Maharashtra State Road Transport Corporation .. Appellant

Versus

Nivruti Gokul Borse .. Respondent

Ms. P. M. Bhansali i/by Mr. G. K. S. Hegde for the Applicant/Appellant.

Mr. Vijay Jha i/by Mr. Baldev Bhawal for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 1st AUGUST 2016

PC.

1 Not on board. Mentioned for restoration of the above First Appeal.

2 The above Civil Application has been filed for restoration of the above First Appeal which has stood dismissed for non-prosecution on account of the conditional order dated 04.02.2008 for non-filing of the private paper book. The Applicant also prays for condonation of delay of 8 years and 138 days in filing the above application. The reasons for the

same are mentioned in paragraphs 4 and 5 of the Civil Application. The First Appeal was admitted by the said order dated 04.02.2008 and a condition was imposed that private paper book to be filed within one year. It is the case of the Applicant/Appellant that it was aware of the said conditional order however was waiting for the record and proceedings to come from the Trial Court of which it was not aware. Since the First Appeal had stood admitted and has been dismissed on account of the conditional order, in my view, it would be just and proper to allow the above Civil Application and restore the First Appeal to file. In the facts and circumstances of the case, the MSRTC is directed to pay costs of Rs.5000/- to the Respondent represented by Mr. Baldev Bhawal. The same to be done within four weeks from date. The Appellant/MSRTC is directed to file private paper book within six months from date. On the private paper book being filed liberty to the parties to apply for the above First Appeal to be heard. The Civil Application is disposed of. In view of the restoration of the above First Appeal, the stay which was operating would also stand restored.

3 Parties to act upon a copy of this order duly authenticated by the Court Shirestedar/Associate.

[R.M. SAVANT, J]