

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

CIVIL APPLICATION NO.3379/2014
IN
FIRST APPEAL NO. 850/1990

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. S. R. Agarkar for the Applicant Nos.1B and 1C.

CORAM : K. K. TATED, J.
DATE : JANUARY 4, 2016

P.C.:

1. Heard. This Application is made by the Defendant for restoration of the First Appeal which was dismissed by order dated 01/09/2014.

2. Office note shows that the Civil Application stood dismissed against all the Respondents except Respondent No.2 Kalyanji Jivraj Shah and Respondent No.4 Mulchand Jivraj Shah.

3. The learned counsel for the Applicant filed Affidavit of service dated 11/09/2015.

4. It is to be noted that earlier the First Appeal stood dismissed twice.

5. 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. At the same time, the Applicant has to pay cost of Rs.5000/-.

6. Hence, the following order:

a) Order dated 01/09/2014 passed by this court is recalled.

b) First Appeal No.850/1990 is restored to file for hearing on its own merits.

c) The Applicant is directed to pay cost of Rs.5000/-. Cost to be deposited in the office of Maharashtra State Legal Services Authority, High Court, Bombay, within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

d) If cost is deposited within stipulated time as stated hereinabove office is directed to issue notice to the Respondent Nos.2 and 4 in First Appeal No.850/1990, returnable 4 weeks thereafter.

e) In addition to usual mode of service, the Applicant is permitted to serve the Respondent

Nos.2 and 4 by way of private notice either by RPAD and/or by hand delivery and to file an affidavit of service to that effect on or before next date, in First Appeal.

f) Civil Application stands disposed off accordingly.

JUDGE