

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3275 OF 2015
IN
FIRST APPEAL NO.2078 OF 2007**

Kamal Mahaling Patil

..Applicant

Vs.

Indubai Mahaling Patil & Ors.

..Respondents

Mr. T. S. Ingale for the Applicant

**Ms Shruti Kandoi a/w Mr. Vinod Sangvikar i/b Mr. Umesh Mankapure for
the Respondents**

CORAM : R. M. SAVANT, J.

DATE : 19th JULY, 2016

P.C.

1 The above Civil Application has been filed for restoration of the above First Appeal which has stood dismissed for non prosecution in view of the fact that the order directing the filing of the private paper book dated 15-2-2008 was not complied with. The Applicant also seeks condonation of delay of 6 years and 6 months in filing the application. It is the case of the Applicant that when a cognate Second Appeal was being heard by this Court and reference was made in the said proceedings to the instant First Appeal that at the said time it was realised that the above First Appeal has stood dismissed for non prosecution on account of the non filing of the private paper book. The dispute in the above First Appeal and the cognate Second Appeal is between two widows in respect of the pension of the deceased to which pension both

the widows lay a claim. It is required to be noted that the First Appeal has stood admitted when it came to be dismissed for non prosecution on account of the non filing of the private paper book. Since the cognate Second Appeal is already pending in this Court, it would be just and proper to allow the Civil Application and to restore the above First Appeal to file. The Civil Application is accordingly allowed resultantly the First Appeal is restored to file. The Appellant to file private paper book within two weeks from date. The Civil Application is accordingly disposed of.

[R.M.SAVANT, J]