

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

918 CIVIL APPLICATION NO. 14927 OF 2017
IN FIRST APPEAL NO. 584 OF 2002

SHAIKH USMAN BABULAL
VERSUS
DURGASHANKAR JAYWANT AND ORS

...
Advocate for applicant : Mr. V. S. Bedre
Advocate for Respondent no.3 : Mr. A. B. Gatne
...

CORAM : K.K. SONAWANE, J.

DATED : 13TH DECEMBER, 2017.

Order :-

Heard the learned counsel for the appellant and the learned counsel Shri Gatne for respondent no.3-United Insurance Company. None appears for respondent no.2.

2. The learned counsel for the applicant submits that inadvertently steps against respondent no.1 could not be taken within stipulated period for lack of his correct forwarding address. In the result, the appeal came to be dismissed against the respondent no.1. According to the learned counsel for the applicant, the respondent no.1 is the owner of the offending vehicle involved in the accident and he is necessary party in this appeal. The applicant seeks restoration of appeal by setting aside the dismissal order passed against respondent no.1.

3. The learned counsel for the respondent- Insurance Company raised objection and submits that the applicant cannot be allowed to take steps against the respondent no.1 after efflux of colossal period.

4. However, considering the nature of the subject matter and reasons mentioned in the application for restoration, the application stands allowed in terms of prayer clause- B, C & D. Delay caused for

filing the present application is hereby condoned. The appeal as against respondent no.1 stands restored to its original stage by setting aside the order dated 06.04.2004. The applicant is hereby permitted to serve the notice to respondent no.1 through paper publication in daily news paper having circulation in the area of residence of respondent no.1 at Indore (Madhya Pradesh). Notice returnable on 29th January, 2018. Accordingly, application stands disposed of in the above terms.

[K. K. SONAWANE]
JUDGE

VSM.