

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

**CIVIL APPLICATION NO.851 OF 2004
IN
FIRST APPEAL (ST) NO.9207 OF 2004
WITH
CIVIL APPLICATION NO.852 OF 2004
IN
FIRST APPEAL (ST) NO.9207 OF 2004**

Shambhuprasad @ Samuprasad
Bharadwaj

...Applicant/Appellant

Versus

Abdul Rashid & Ors.

...Respondents

Ms. Aneeta Vasani for the Applicant/Appellant.

CORAM : M. S. SONAK, J.

DATE : 27 MARCH 2017

P.C.

1. This is an application for seeking condonation of delay in instituting the appeal against judgment and decree dated 25 November 2003.

2. On 05 June 2006, notice was ordered to the respondents, returnable on 22 December 2006.

3. The notice issued to respondent No.1 was returned

unserved. The Registry, on 20-12-2006 noted that there is no affidavit of service filed by the applicant.

4. On 04 August 2007, a common order was made in this Civil Application as also several similar matters where service was yet to be completed. Order dated 04 August 2007 reads thus :-

“1. All these matters are under the caption of “UNSERVED NOTICE”.

2. Parties to take steps for serving notices. Private service if no already issued, is also permitted. Affidavit of service if respondents/defendants are served, may be filed. Ad-interim orders if any, to continue for a period of further four weeks.

3. The matters stand dismissed without reference to Court's order if above compliances are not made as notified.”

5. The order dated 04 August 2007 was a self operative order and accordingly this appeal stands dismissed as on 04 September 2007.

6. Thereafter, for a period of almost 10 years it appears that no steps have been taken by the appellant. The noting put up by the Registry on 27-03-2017 indicates that as per the Courts order

dated 04 August 2007, no affidavit of service has been filed till date.

7. For the reasons above mentioned, the Civil Application No.851 of 2004 stands dismissed. Since, the Civil Application stands dismissed, nothing survives in the appeal and appeal also stands dismissed. The other Civil Applications in the appeal also do not survive and the same are also disposed of.

(M. S. SONAK, J.)