

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

CIVIL APPLICATION NO.581 OF 2017
IN
WRIT PETITION NO.13877 OF 2016

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.Sagar S. Tambe i/b Mr.Ashwinikumar Kapadnis
for the applicant

Mr.R.V.Sankpal for the respondent

CORAM : K. K. TATED, J.

DATE : MARCH 17, 2017

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 Liberty granted to the applicant to carry out appropriate amendment in prayer clause (c) during the course of the day.
- 3 This application is for restoration of Writ Petition No.13877 of 2016 which was dismissed for non-compliance of conditional order dated 16.12.2016.
- 4 This court by order dated 16.12.2016 directed petitioner to remove office objections on or before 6.1.2017. As the applicant failed to remove all office objections within stipulated time, matter stand dismissed for non-removal of office

objections.

5 The learned counsel for the applicant submits that inadvertently it remained on the part of advocate to take immediate steps to remove office objections. He submits that because of mistake on the part of advocate, litigant should not suffer. He submits that applicant has good chance of success in the present matter. He submits that if matter is not restored, irreparable loss will be caused to the applicant.

6 On the other hand, the learned counsel for the respondent vehemently opposed the present Civil Application. He submits that applicant failed to disclose any sufficient cause even for condonation of 45 days delay in filing Civil Application and for setting aside the order of dismissal dated 16.12.2016. Hence, there is no substance in the present Civil Application and same be dismissed.

7 Heard the learned counsel for the parties.

8 There was delay on the part of applicant to remove office objections. It is to be noted that objections in the petition to be removed by the advocate. Because of mistake on the part of advocate litigant should not suffer.

9 Considering these facts, I am satisfied that the Applicant has made out a case for allowing the present Civil Application but they have to pay cost of Rs.2,500/-. Hence, following order is passed:

- a) Delay in preferring Civil Application is condoned.
- b) Verification of Civil Application is dispensed with.
- c) Time to remove office objections as per earlier order dated 16.12.2016 is extended till 7.4.2017.
- d) If office objections are not removed within stipulated time as stated hereinabove, Civil Application shall stand dismissed without referring back to the court.
- e) Applicant to pay cost of Rs.2,500/-.
- f) Cost to be deposited in the office of the Kirtikar Law Library, High Court, Bombay and place on record receipt to that effect on or before 31.3.2017.
- g) Civil application stands disposed off accordingly.

JUDGE