

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

**CIVIL APPLICATION NO. 1214 OF 2016
IN
SECOND APPEAL NO. 441 OF 2007**

Suresh Dattatraya Yamagarne	...Applicant
vs.	
Virbhandra Vilas Yamagarne & Ors.	...Respondents

Mr.P.R. Arjunwadkar for Applicant.
Mr.Ashok M. Magal for Respondent Nos.1 to 3.

CORAM : S.C. GUPTE, J.

6 JANUARY 2017

P.C. :

Heard learned Counsel for the parties.

2 This application seeks to set aside a self-operative dismissal order for non-filing of private paper book within a period of one year. There is a long delay in taking out the present application. The reason is attributed to a misunderstanding of the conditional order, which is said to be inadvertently missed by the Appellant's Advocate. It would be in the interest of justice to condone the delay and allow the application subject to payment of costs. Considering that the dispute is in respect of a small house property in a remote village, the delay is condoned and the second appeal is restored by directing the Applicant to pay costs quantified at Rs.3000/- to the Respondents. The costs to be condition precedent and paid within a period of four weeks from today.

3 Learned Counsel for the Appellant states that the paper book

shall be submitted by him within four weeks from today. The statement is accepted. In the event the paper book is not submitted, the second appeal shall stand dismissed without reference to this court.

(S.C. Gupte, J.)