

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

**CIVIL APPLICATION NO.2792 OF 2016
IN
FIRST APPEAL NO.691 OF 2002**

Alfred Associates ... Applicant

IN THE MATTER BETWEEN

Alfred Associates ... Appellants

Vs.

Municipal Corporation of Greater Mumbai & Ors. ... Respondents

Mr.Joel J. Carlos i/b S.R. Karpe for the Applicant

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: SEPTEMBER 20, 2017**

P.C. :

1. Learned counsel for the applicant submits that he has served respondent No.2. The acknowledgement showing service is taken on record and marked as **Exhibit 1**. He further submits that respondent Nos.1 and 2 are the only contesting parties. He further submits that the appeal was admitted and fixed for final hearing, however, due to oversight, the counsel did not attend the matter on that day and, therefore, the appeal was dismissed for default. The order went unnoticed and so, there is a delay of 76 days in filing the present application for restoration. It is an old appeal of 2002 and the appellant is seriously contesting the same.

2. Mr.Saraogi, learned counsel for the respondent No.2, submitted that he is not served with the memo of the appeal and other papers. However, he informs that when his name will be flashed, he is supposed to appear in the matter.

3. Matter kept back to be called out at 3pm.

AT 3pm:

4. In the second session, the matter is called out and Mr.Saraogi is present.

5. Heard. For the reasons mentioned in the Civil Application, delay is condoned and the order dated 29.1.2016 dismissing the First Appeal No.691 of 2002 for default, is hereby set aside and the First Appeal is restored to the file.

6. Civil Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)