

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

**CIVIL APPLICATION NO. 244 OF 2017
IN
MISC. CIVIL APPLICATION NO. 57 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
--	---------------------------

Mr. Sanjay S. Mehta for Applicant.
None present for Respondent.

**CORAM : K. K. TATED, J.
DATE : DECEMBER 22, 2017**

P.C.:

- . Heard learned Counsel for Applicant.
2. The learned Counsel Mr. Mehta for Applicant submits that as per order dated 10th October, 2017 passed by this Court they have served the Respondent the copy of Misc. Civil Application and filed affidavit of service dated 11th October, 2017. In spite of service no one appeared on behalf of Respondent when the matter was called out.
3. This Application is for restoration of Misc. Civil Application No. 57 of 2017, which stand dismissed for default by order dated 14th July, 2017 passed by this Court.

4. The learned Counsel for Applicant submits that when the matter was called out before this Court on 14th July, 2017, he was held up in another matter. Hence, no one remained present on behalf of him. Therefore, in the interest of justice, this Hon'ble Court be pleased to recall the order dated 14th July, 2017 and restore the Misc. Civil Application No. 57 of 2017 on file for hearing on its own merits. He submits that if the Civil Application is not allowed, irreparable loss will be caused to the Applicant.

5. Considering the submission made by the learned Counsel for Applicant and the reasons disclosed in Civil Application and because of the mistake on the part of Advocate litigant should not suffer, I am satisfied that Applicant has made out a case for allowing the Civil Application. Hence, the following order.

ORDER

(A) Order dated 14th July, 2017 passed by this Court dismissing the Misc. Civil Application No. 57 of 2017 is recalled.

(B) Misc. Civil Application No. 57 of 2017 is restored on file for hearing on its own merits.

(C) Applicant to inform this order along with copy of this order to the Respondent either by registered post A.D. and/or by hand delivery and

file affidavit of service to that effect on or before 12th January, 2018.

(D) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)