

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

**CIVIL APPLICATION NO. 277 OF 2017
IN
MISC. CIVIL APPLICATION NO. 61 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr. Ravi P. Kadam for Applicant.

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

P.C.:

. Heard learned Counsel Mr. Kadam for Applicant.

2. This Application is for restoration of Misc. Civil Application No. 61 of 2017 which stand dismissed for non prosecution by order dated 8th August, 2017.

3. The learned Counsel for Applicant submits that on that day there was heavy rain in Mumbai, and therefore, it was not possible for him to reach in time. To that effect, he has made averments in para 7 of the Civil Application. He submits that in the interest of justice this Hon'ble Court be pleased to allow the present Civil

Application and restore the Misc. Civil Application on file for hearing on its own merits.

4. The learned Counsel for Applicant submits that if this Civil Application is not allowed, irreparable loss will be caused to the Applicant because he had preferred Misc. Civil Application under section 24 of the Code of Civil Procedure, 1908 for transfer of Petition from one place to another place.

5. Considering the submission made by the learned Counsel for Applicant and the reasons disclosed in para 7 of the Civil Application, I am satisfied that Applicant has made out a case for allowing the Civil Application.

6. It is to be noted that it is not necessary to issue notice to the Respondent because no one appeared on behalf of him when the matter was dismissed for default on 8th August, 2017. Hence, the following order.

ORDER

(A) Order dated 8th August, 2017 passed by this Court is recalled.

(B) Misc. Civil Application No. 61 of 2017 is restored on file for hearing on its own merits.

(C) Applicant to inform this order along with the copy of Misc. Civil Application to the Respondent on or before 19th January, 2018 either by registered post A.D. and/or by hand delivery

and file affidavit of service to that effect, failing which, Civil Application shall stand dismissed without reference back to the Court.

(D) If Affidavit of service is filed within stipulated time as stated herein above, Registry is directed to place the Misc. Civil Application No. 61 of 2017 on board on 2nd February, 2018 under the caption 'for admission'.

(E) Civil Application stand disposed of accordingly.

(F) Liberty is granted to the Applicant to move for ad-interim relief in Misc. Civil Application No. 61 of 2017 after giving 48 hours notice to the other side.

(G) Stand over to 2nd February, 2018.

(K.K.TATED, J.)