

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.3000 OF 2016
IN
NOTICE OF MOTION (LODGING) NO.3527 OF 2015
IN
APPEAL NO.698 OF 2013**

Naranendra Maganlal Shah : Applicant.

In the matter between

Narendra Maganlal Shah : Appellant.

Versus

Malti Maganlal Shah : Respondent.

Mr. B S Nayak for the Applicant/Appellant.

Mr. Rahul Rao for the Respondent.

**CORAM : R. M. SAVANT &
SARANG V KOTWAL, JJ.**

DATE : 24th November 2017

P.C.

1 The above Notice of Motion 3000 of 2016 has been filed for restoration of Notice of Motion (L) No.3527 of 2015 and for condonation of delay of 145 days in filing the instant Notice of Motion. The reasons for the delay are mentioned in the affidavit in support of the instant Notice of Motion.

2 The learned counsel appearing on behalf of the Respondent Shri Rahul Rao states that the said Notice of Motion (L) No.3527 of 2015 is itself belated by 745 days and he therefore on the said ground opposes the instant Notice of Motion which has been filed for restoration of the said Notice of Motion (L) No.3527 of 2015.

3 In our view, the said aspect can be gone into as and when the said Notice of Motion (L) No.3527 of 2015 is taken up for hearing. However, it would be just and proper to show a final indulgence to the Applicant/Appellant by allowing the above Notice of Motion No.3000 of 2016 by condoning the delay of 145 days in filing the same. The above Notice of Motion No.3000 of 2016 is accordingly made absolute in terms of prayer clauses (a) and (b).

4 Having regard to the persistent delay on the part of the Applicant/Appellant to file the applications, We deem it appropriate to impose costs of Rs.5000/- to be paid over to the Respondent within four weeks from date. Payment of costs is a condition precedent for restoration of the said Notice of Motion (L) No.3527 of 2015. If the said costs are not paid, then the benefit of this order would not enure to the Applicant/Appellant and resultantly the above Notice of Motion would be deemed to have been dismissed. The above Notice of Motion No.3000 of 2016 is accordingly disposed of.

[SARANG V KOTWAL, J]

[R.M.SAVANT, J]