

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

23 CIVIL APPLICATION NO. 179 OF 2017
IN SA/188/2012

KISAN RAMSING PATIL
VERSUS
ANIL BALIRAM PATIL

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Advocate for Applicant : Mr. N. B. Jadhav
Advocate for Respondent : Mr. P. K. Nikam

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CORAM : V. K. JADHAV, J.
DATED : 6th APRIL, 2018

PER COURT :-

1. Heard both sides. Learned counsel for the applicant submits that this court has dismissed the appeal on 14.09.2015 and on the same day counsel for the applicant approached the court for restoration of the appeal. However, the counsel for the respondent was not present and this court has not considered the request. Consequently, on the very next day i.e. 15.09.2015 the learned counsel for the applicant has prepared the civil application for restoration of the appeal and served copy of the said application on the learned counsel appearing for the respondent on 15.09.2015 itself. However, the said civil application was not filed in the court and said application has been lost. The learned counsel for the applicant submits that counsel remained under impression that the civil application has been filed in the court. Thus, the delay of 412 days caused in filing the restoration of the second appeal.

2. Learned counsel for respondent has not disputed that on 14.09.2015 itself when the second appeal was dismissed by this court, learned counsel appearing for the appellant was contacted to him on phone and since he was held up in the District Court, he could not come before this court when the appellant requested the court for restoration of the appeal. Learned counsel for the respondent also accepts that on 15.09.2015 i.e. on the very next day, the copy of the civil application for restoration of the appeal was served on the learned counsel.

3. In view of above and for the reasons stated in the application, civil application is allowed in terms of prayer clause "B & C" and disposed of accordingly.

4. Place the matter for hearing on admission as per its turn.

(V. K. JADHAV, J.)

vsm/-