

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 454 OF 2015
IN
FIRST APPEAL NO. 124 OF 2007

Govindrao Vitthalrao Shinde	... Applicant
Vs.	
Shankar Shrirang Thorat	... Respondent

Mr. R.V. Bansode, Advocate for the applicant.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 10th January, 2018.

P.C.:

This Application is moved for restoration of First Appeal and for condonation of delay in filing this Application for restoration of Appeal.

2. The learned counsel for the applicant submitted that the service is made on respondent and he has filed the affidavit of service with acknowledgement, however, none present for the respondent. The learned counsel submitted that by the order dated 16th January, 2007, the Appeal was admitted and direction was given to file the paper book within one year from the date of the order and if the paper book is not filed, the Appeal would be dismissed. The learned counsel submitted that due to oversight, the paper book

remained to be filed in the Court within the stipulated time, hence, the Appeal was dismissed. Therefore, there is a delay of 7 years and 2 days for filing this Application for restoration of First Appeal. He submitted that inadvertently the paper book was not filed and now the appellant is ready to file the paper book.

3. Heard the submissions. As the Appeal is already admitted, the order of dismissal for want of compliance is hereby recalled. For the reasons mentioned in the Application, delay is condoned. First Appeal is restored to its original file. The applicant/appellant is directed to file paper book within ten weeks. If the paper book is not filed within the stipulated time, the Appeal will be dismissed without further reference to the Court.

4. Civil Application is allowed and disposed of accordingly.

5. In Appeal, issue fresh notice to the respondent, returnable on 21st March, 2018.

(MRIDULA BHATKAR, J.)