

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1741/2018
IN
FIRST APPEAL NO.1539/2012

Reliance Communication Ltd.

... Applicant

V/s.

Rajendra P. Bansal

... Respondent

Mr. Cyrus Bharucha with Tushad Kakalia with Paresh Patkar i/b. M/s.
Mulla & Mulla & CBC for the Applicant
Mr. Rajendra P. Bansal – Respondent in person.

**CORAM: K.K. TATED &
DR. SHALINI PHANSALKAR JOSHI, JJ.**

DATED : JUNE 18, 2018

PC. :

1 Heard. By this Application the Applicant seeks to recall the order dated 15.01.2018 passed by this court by which the First Appeal stood dismissed along with Civil Application No.4280/2012 for non prosecution.

2 The learned counsel for the Applicant submits that because of mistake on the part of the advocate, a litigant should not suffer. He submits that the Applicant has good chance of success in the matter. He submits that in the interest of justice, this Hon'ble Court be pleased to recall the order dated 15.01.2018 and restore the First Appeal as well as the Civil Application for hearing on merits.

3 On the other hand the Respondent party in person has vehemently opposed the Civil Application. He submits that though the matter was listed on weekly board, none appeared on behalf of the Applicant when the matter was called out. He submits that the First Appeal is pending for last several years.

4 Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in the Application, we are satisfied that because of mistake on the part of the advocate, a litigant should not suffer and therefore, in our view, the Applicant has made out a case for allowing the present Civil Application. At the same time, the Applicant has to pay cost of Rs.15,000/- to the Respondent.

5 Hence, the following order:

- a) Order dated 15.01.2018 is recalled.
- b) The First Appeal No.1539/2012 as well as the Civil Application No.4280/2012 are restored to file for hearing on merits.
- c) The Applicant has to pay cost of Rs.15,000/- to the Respondent on or before 30.06.2018, failing which the Civil Application shall stand dismissed without further reference to the court.
- d) If cost is paid within stipulated time as stated hereinabove, office is directed to place the First Appeal No.1539/2012 along with Civil Application No.4280/2012 for final hearing in the week commencing from 16.07.2018.

- e) Civil application stands disposed off accordingly.
- f) Interim order passed in the First Appeal stands revived.

(DR. SHALINI PHANSALKAR JOSHI, J.)

(K.K. TATED, J.)