

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

**CIVIL APPLICATION NO. 2783 OF 2018
IN
FIRST APPEAL STAMP NO. 26006 OF 2016
(REJECTED CASE NO. 2010 OF 2017)**

Reliance General Insurance Co. Ltd. ... Applicant

Versus

Gopal Ramdin Yadav and another ... Respondents

....

Ms. Deepika Prabhala i/b Res Juris for Applicant.

Mr. Vikrant A. Desai h/f Mr. S.M. Kamble for Respondent No.1.

....

CORAM : K. K. SONAWANE, J.

DATE : 8th AUGUST, 2018.

P. C.:

1. Heard learned Counsel for the applicant-insurance company and the learned Counsel for respondent No.1. Despite service of notice, respondent No.2 remained absent.

2. The present application is moved on behalf of the applicant-insurance company to get the proceeding of First Appeal Stamp No.26006 of 2016 and Civil Application Stamp No. 26007 of 2016 restored at its original stage against respondents No. 1 and 2. Learned Counsel for the applicant submits that the applicant-

insurance company preferred appeal bearing First Appeal Stamp No.26006 of 2016 with Civil Application Stamp No. 26007 of 2016. Notices were issued to the respondents, but the same could not be served within stipulated period. The applicant-insurance company also did not take any steps to serve respondents, which resulted into dismissal of the proceedings. Learned Counsel for the applicant submits that due to unavoidable circumstances the applicant-insurance company could not take any steps to serve notice to respondents No. 1 and 2 for their appearance in the proceedings. The matter pertains to the compensation under the Workmens' Compensation Act, 1923. In such circumstances, it is essential for the applicant-insurance company to get the proceeding restore at its original stage for further process.

3. Learned Counsel for respondent No.1 raised objection that the applicant-insurance company was negligent for service on respondents No. 1 and 2, therefore, the proceeding cannot be restored at the instance of applicant.

4. In view of reasons mentioned in the application and nature of the subject matter, I find it justifiable to give a reasonable

opportunity to the applicant-insurance company to serve the notice of proceeding of the appeal and civil applications to the respondents No. 1 and 2 for substantial justice. In case, the proceeding is not restored, it would cause injustice to the applicant. Hence, application deserves to be allowed.

5. Accordingly, civil application stands allowed in terms of prayer clauses (a), (ai), (b) and (c). The impugned order passed by the Registrar-Judicial-II is hereby set aside by condoning the delay caused for filing the present application.

6. The Registry to take requisite steps for restoration of the proceeding at its original stage.

7. On restoration of the proceeding at its original stage, issue notice to the respondents, returnable on 12th September, 2018. Mr. Desai, learned Counsel waives notice on behalf of respondent No.1.

8. It is further stipulated that insurance company shall take steps for service of notice within a period of three weeks from restoration of First Appeal Stamp No. 26006 of 2016 with Civil

Application Stamp No.26007 of 2016, failure to which, the present order stands recalled automatically without further reference to this Court.

9. With the aforesaid observations, civil application stands disposed of.

(K. K. SONAWANE, J.)