

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

**CIVIL APPLICATION NO. 320 OF 2018
IN
FAMILY COURT APPEAL NO. 131 OF 2014**

Priyanka N. Tawade	...	Applicant.
In the matter between :		
Priyanka N. Tawade	...	Appellant.
V/s.		
Nilesh M. Tawade	...	Respondent.

None for the Applicant.
Mr. Kishor G. Pashte, Advocate for the Respondent.

**CORAM : K.K. TATED & N.J. JAMADAR,JJ.
DATE : DECEMBER 18, 2018.**

PC :

- 1 None for the Appellant / Applicant. Mr. Kishor Pashte, Advocate appears for the Respondent.
- 2 On 07.12.2018, no one had appeared on behalf of the Applicant.
- 3 Today the matter is listed under the caption “for dismissal”.
- 4 Today also no one appears on behalf of the Applicant.
- 5 Civil application stands dismissed for non-prosecution.

(N.J. JAMADAR, J.)

(K. K. TATED,J.)

6 Later on Mrs. Prabha U. Badadare, Advocate, appears for the Applicant and mentioned this matter.

7 Considering the submissions made by the learned counsel for the Applicant, the earlier order of dismissal, is recalled and the civil application is restored to file, for hearing on its own merits.

8 Heard the learned counsel for the Applicant.

9 By this civil application, the Applicant is seeking condonation of delay of 361 days in filing present civil application for restoration of family court appeal no. 131 of 2014, which was dismissed, in view of the conditional order dated 08.03.2017, for non-filing of the private paper book within six months from the date of the order.

10 Learned counsel for the applicant submits that it remained on the part of the Advocate of the Applicant to take appropriate steps to file private paper book in time. She submits that because of the mistake on the part of the Advocate, the litigant should not suffer. She submits that the applicant undertakes to file private paper book within 8 weeks from today.

11 Considering the submissions made by the learned counsel for the Applicant/ Appellant and the averments made in the civil application, because of the mistake on the part of the Advocate, the litigant should not suffer and that the applicant is ready and willing to file private paper book within 8 weeks from today, we are satisfied that the appellant has made out a case for following order :

- i. The Civil Application is allowed.
- ii. The delay is condoned.
- iii. The Family Court Appeal No. 131 of 2014 is restored to file for hearing on its own merits.
- iv. The appellant is permitted to file private paper book as per the order dated 08.03.2017 on or before 28.02.2019; failing with the civil application shall stand dismissed without referring back to the court.
- v. Printing dispensed with.
- vi. Civil application stand disposed of.
- vii. The Applicant is directed to inform this order to the Respondent or his Advocate either by RPAD or hand delivery and file affidavit to that effect.

(N.J. JAMADAR, J.)

(K. K. TATED, J.)

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