

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

**CIVIL APPLICATION NO. 251 OF 2017
IN
CIVIL APPLICATION NO. 150 OF 2017
IN
MISC. CIVIL APPLICATION NO. 56 OF 2016**

Mohsin Inamdar ... Applicant/Org.
Respondent.

In the matter between :

Mrs. Nida Mohsin Inamdar & Ors. ... Org. Applicants.

V/s.
Mohsin Inamdar ... Respondent.

Mr. Syed Asif Abbas Naqvi, Advocate for the Applicant- Mohsin.
Ms. Rimpal Trivedi, Advocate for the Ori. Applicant-Mrs. Nida.

CORAM : A. M. DHAVALA, J.

DATE : SEPTEMBER 25, 2018.

PC :

1 The Civil Application No. 150 of 2017 filed by the husband - Mohsin - Org.Respondent, in Misc. Civil Application No. 56 of 2016 filed by the wife - Mrs. Nida, came to be dismissed for default vide order dated 14th July, 2017 passed by this court (Coram : S.J. Kathawalla,J.).

2 Learned Advocate for the husband, the Applicant in this present Civil Application No. 251 of 2017, points out

that when the matter was fixed in the High Court, on the same day, the criminal case that was sought to be transferred by the husband, was pending before the Metropolitan Magistrate, 69th Court, Sewree (Mazgaon), Mumbai and on that day, the evidence was also recorded. Since, the parties and Advocates were busy in the trial court, they could not attend the High Court and the C.A. No. 150 of 2017 was dismissed for default. The present civil application was moved within time of 30 days. However, the Registry has wrongly raised objection that there was delay of 34 days when there is no delay. In the circumstances, the present civil application deserves to be allowed.

3 The Civil Application No. 251 of 2018 is allowed and stands disposed of.

4 As a result, Civil Application No. 150 of 2017 is restored to the file. Parties to lead evidence by way of affidavit and documents.

5 C.A. No. 150 of 2017 to stand over to 22.10.2018.

(A. M. DHAVALE, J.)

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