

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1619 OF 2019
IN
FIRST APPEAL ST. NO. 18582 OF 2015

Prakash Pandurang Chougule & Ors. Applicants.

Vs.

Pandurang D. Chavan Respondent

Mr. J. J. Bardeskar for the Applicants.
None for the Respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 20, 2019

P.C.

- 1 Heard learned counsel for the Applicants.
2. By this Civil Applications, Applicants are seeking to restore the first appeal stamp no. 18582 of 2015 filed by them which stand dismissed in view of the conditional order dated 9th October 2015 passed by the learned Registrar (Judicia-II), challenging the judgment and award dated 4th April 2015 passed by the Motor Accident Claims Tribunal, Kolhapur in Motor Accident Claim Petition No. 78 of 2009. There is delay of two years and sixty two days in filing the present application.

3. The learned counsel for the Applicants submits that inadvertently, it remained on their part to remove all office objections within time. He submits that they have good chance of success in the present proceeding. He submits that in the interest of justice this Court be pleased to condone the delay in filing the Civil Application and the matter be restored on file for hearing on its own merits. He submits that if the application is not allowed, irreparable loss will be caused to the Applicants.

4. It is to be noted that, in the present proceeding matter appeared before the learned Registrar on 20th August 2015, 10th September, 2015 and 9th October, 2015 for removal of office objections. On that dates, no one appeared on behalf of the Applicant. Hence, the Registrar passed the conditional order.

5. Considering the submission made by the learned counsel for the Applicants, averments made in Civil Application and as the advocate for the Applicants has made the statement before this Court that, he is ready and willing to pay the costs, I am satisfied that the Applicant has made out the case for allowing the Civil Application. In any case, because of mistake on the part of the Advocates the litigant should not suffer.

6. Hence, the following order:
 - a. The order dated 9th October 2015 passed by the learned Registrar (Judicial – II), is set aside.
 - b. First Appeal St.No. 18582 of 2015 is restored on file for hearing on its own merits.
 - c. The Applicants are directed to remove all office objections in First Appeal Stamp No. 18582 of 2015 on or before 20th July, 2019, failing which Civil Application shall stand dismissed without further reference to the Court.
 - d. The Applicants to pay the cost of Rs. 10,000/-.
 - e. Cost to be deposited in the Kirtikar Library, First Floor, High Court on or before 12th July 2019 and place on record the receipt to that effect, failing which Civil Application shall stand dismissed without further reference to the Court.
 - f. The Civil Application stands disposed of accordingly.
 - g. No order as to costs.

(K.K.TATED, J.)