

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

**CIVIL APPLICATION NO.1193/2017
IN
CIVIL APPLICATION NO.499/2016
IN
FIRST APPEAL NO.675/2015**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Advocate Mr.Ashok Toraskar for applicant.

Advocate Mrs.Varsha Savant i/b AA Joshi for respondent no.2.

**CORAM : K. K. TATED, J.
DATE : AUGUST 16, 2019.**

P.C.:

Heard learned counsel for parties.

2 Learned Advocate for applicant submits that respondent no.1 is duly served by private notice. He already filed affidavit of service to that effect.

3 By this civil application, applicant is seeking restoration of

First Appeal No.675/2015 which stand dismissed in view of conditional order dated 27.3.2015 passed by this Court for not filing paper book within time. He submits that it remained on their part to file private paper book within stipulated time. He submits that applicant is ready and willing to file private paper book. He submits that delay in filing civil application be condoned. He submits that if applicant is not allowed, loss would be caused to the applicant.

4. Learned counsel for respondent no.2 vehemently opposed present civil application. He submits that applicant failed to disclose any sufficient cause for delay in complying order dated 26.3.2019. He submits that there is no substance in the present civil application and prays to dismiss the same.

5. At this stage, learned counsel for applicant submits that in view of dismissal of first appeal for non filing of paper book within time, Registrar (Judicial-II) vide order dated 26.3.2015, dismissed civil application no.499/2016 for bringing legal heirs on record. He submits that in the interest of justice, this court be pleased to set aside order dated 12.8.2016.

6. It is to be noted that, this court by order dated 26.3.2015, directed applicant to file private paper book within 1 year from the date of order.

7. Considering the submissions made by learned advocate for applicant and the averments made in civil application, I am satisfied that applicant has made out a case for following order.

a)First Appeal No.675/2015 is restored on file for hearing on its own merits.

b)Applicant to file private Paperbook on or before 16.11.2019 with copy to other side, failing which civil application shall stand dismissed without referring back to the court.

c) Order dated 12.8.2016 passed by the Registrar (Judicial-II) is set aside.

d)Civil application No.499/2016 preferred by applicant is restored on file for hearing on its own merits.

e) Civil application allowed and disposed of accordingly.

(K.K.TATED, J.)