

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1217/2014
in
Rejected Case No.460/2013

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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Mr. P. M. Arjunwadkar for the Applicant

CORAM: K.K.TATED, J.
DATED : AUGUST 13, 2019

P.C.

1 Heard. By this Civil Application, the Applicant - claimant is seeking to set aside the order dated 13.07.2012 passed by the Registrar Judicial (II) and to recall the order dated 04.10.2012 passed by this court by which the Civil Application for condonation of delay and the First Appeal stood dismissed for non prosecution.

2 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, the Applicant has to pay cost of Rs.2500/-.

3 Hence, following order is passed.

a. Order dated 04.10.2012 passed by this court is recalled.

b. Civil Application No.108/2010 is restored to file for hearing on merits.

c. Order dated 13.07.2012 passed by the Registrar Judicial (II) is set aside.

d. Civil Application for condonation of delay is restored against Respondent No.2 for hearing on merits.

e. The Applicant is permitted to serve Respondent No.2 by substituted service under Order 5 Rule 20 of the Code of Civil Procedure, 1908 by publishing notice in two leading newspapers and file an Affidavit of Service to that effect on or before 19.10.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

f. The Applicant to pay cost of Rs.2500/-.

g. Costs shall be paid to the Kirtikar Law Library, High Court, Mumbai on or before 31.08.2019 and place a receipt

thereof on record, failing which the Civil Application shall stand dismissed without further reference to the court.

h. Civil Application stands disposed of accordingly.

i. No order as to costs.

(K.K.TATED, J.)