

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

CIVIL APPLICATION NO.2623/2015
IN
FIRST APPEAL NO.1638/2013

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.Dr.D.S. Hatle a/w Deepak Jamsandekar for applicant.

CORAM : K.K.TATED, J.
DATED : JUNE 6, 2019.

P.C.

Heard learned counsel for the applicant.

2 This application is for restoration of first appeal as well as civil application which stands dismissed in view of condition of order dated 27.10.2014, passed by the learned Registrar (Judicial II).

3 Learned counsel for applicant submits that in the present proceeding Civil application no. 4145/2013 was preferred for stay of operation and implementation of Judgment and Award passed by the trial court. He submits that this Court by order dated 26/02/2014 in Civil

Application no.4145/2013 granted ad-interim relief in terms of prayer clause (a). The applicant already deposited entire compensation with the Commissioner.

3 Learned counsel for applicant submits that it remained on part of the applicant to take appropriate steps for service on respondent. Learned advocate for applicant submits that the applicant undertake to take appropriate steps for service within 4 weeks from today. He submits that in the interest of justice, this Court be pleased to allow present civil application and first appeal to be heard on its own merits. He submits that if application is not allowed, irreparable loss and injury would be caused to them.

4 Considering the submissions made by the learned advocate for applicant, as applicant already deposited the entire awarded amount in the trial court, and the reasons disclosed in civil application, I am satisfied that applicant has made out a case for allowing the civil application. At the same time, applicants have to pay cost of Rs.2500/-.

5 Hence, the following order.

- a) Order dated 27.10.2014 passed by the learned Registrar (Judicial II) is set aside.
- b) First appeal 1638/2013 with Civil Application no.4145/2013 is restored on file for hearing on its own merits.
- c) Applicant to remove all office objections as well as to take appropriate steps for service on respondent on or before 20.07.2019 failing which civil application shall stand dismissed without referring back to the Court.
- d) Applicant to pay sum of Rs.2,500/- by way of cost.
- e) Cost be deposited in Kirtikar Law Library, High Court, Main Building, Mumbai on or before 21.06.2019 and place a receipt thereof on record failing which the civil application shall stand dismissed without referring back to court.
- f) Civil application stands disposed of accordingly.

(K.K.TATED, J.)