

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION IN FIRST APPEAL NO.3727 OF 2016
IN
FIRST APPEAL NO. 2489 OF 2011
WITH
CIVIL APPLICATION IN FIRST APPEAL NO. 3370 OF 2011
WITH
FIRST APPEAL NO. 146 OF 2012
WITH
FIRST APPEAL NO. 230 OF 2012**

S.T.K.Corporation Builders & Developer ..Applicants
v/s.

Shri Dattaram Prabhu Phadtare & Anr. ..Respondents

Mr. Bhavik Manek a/w. Ms.Mani Thevar, i/b. Mahesh Menon & Co.,
for Appellants in CAF No. 3727/2016, Appellant in FA 2489/2011
and Respondent No.2 in FA 230/2012 & FA 146/2012.

Mr.Nishant S. Mohile, i/b.Mr.P.J.Thorat, for Appellant in FA 230/
2012 and for Respondent No.1 in FA 146/2012 and for Respondent
No.1 in FA 2489/2011.

Ms.Oorja Dhond for Appellant in FA 146 of 2012 and for Respondent
No.1 in FA 230/2012.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 8th AUGUST, 2019.**

P.C.

1. By this application the applicant has sought restoration of the
appeal which was dismissed for non compliance of conditional order

dated 15/09/2015. By order dated 15/09/2015, the applicant was granted two week's time to supply documents and printing charges, failing which, the applicant was put to notice that the appeal would be dismissed without further reference to the Court. Non compliance of the said condition has resulted in dismissal of the appeal.

2. In Para-5 of the application the applicants have stated that the Advocate on record had directed his clerk Mr.Suresh Sawant to comply with the directions and that he was under the genuine and bonafide belief that the said directions were duly complied with.

3. It is stated that the directions were not complied due to inadvertence and bonafide mistake on the part of the clerk. The averments made in para-5 to 7 of the application are not controverted.

4. In the light of the reasons stated in para 5 to 7 of the application which in my considered view, constitute sufficient cause, the application is allowed. Delay in filing the application is

condoned. First Appeal No. 2489 of 2011 is restored. Learned Counsel Mr.Nishant Mohile and Mr.Bhavik Manek waives service on behalf of respondent Nos.1 and 2 respectively. The appeal be listed for final hearing alongwith First Appeal No. 230 of 2012 and 146 of 2012.

5. Stand over to 29/08/2019.

(ANUJA PRABHUDESSAI, J.)