

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2230/2015
IN
FIRST APPEAL NO.598/2011

Sanjay P. Zanzurane ... Applicant.
Vs.
Madhukar T. Jadhav & Ors. ... Respondents.
Mrs.Aarti P. Bhide, advocate for applicant.

CORAM : K.K.TATED, J.
DATED : JUNE 17, 2019.

P.C.

Heard learned counsel for applicant.

2. Though respondents are served, no one appeared on behalf of them when the matter is called out.

3. By this application, applicant/original defendant is seeking to condone 3 years 56 days delay in filing present civil application for restoration of first appeal no.598/2011 which stand dismissed in view of conditional order dated 27.1.2011 for non filing of private paper book.

4. Learned counsel for applicant submits that inadvertently it remained on her part to file private paper book within time. She submits that present first appeal is valued for Rs.2,50,000/-. Hence, same is required to be

transferred to District Court Pune for hearing and final disposal.

5. Learned advocate for applicant submits that applicant was under impression that the matter is transferred to District Court Pune. Therefore, it remained on her part to file private paper book. She submits that this court be pleased to condone the delay in filing present civil application and matter be restored on file. Learned advocate for applicant submits that applicant is ready and willing to remove all office objections within 10 weeks from today including filing of paper book.

6. Considering the submissions of learned counsel for applicant, averments made in the application and because of mistake on the part of advocate, litigant should not suffer, I am satisfied that applicant has made out a case for following order.

a) Delay in filing civil application is condoned.

b) First appeal no.598/2011 is restored on file for hearing on its own merits.

c) Applicant to remove all office objections including filing of private paper book on or before 21.9.2019 failing which, civil application shall stand dismissed without referring back to the court.

d) If all office objections are removed and paper book is filed within stipulated period as mentioned above, Registry is directed to take appropriate steps for transferring this matter to the concerned District Court considering the valuation made in the first appeal.

e) Civil application stands disposed of.

f) No order as to cost.

(K.K.TATED, J.)

