

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3725/2016
in
First Appeal No.1840/2015

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Ms. Aditi M. Athawale i/b. Milind Sathaye & Yogita
Deshmukh Chitnis for the Applicant

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

P.C.

1 Heard. By this Civil Application, the Applicant is seeking to set aside the order dated 09.06.2015 passed by the Registrar Judicial (II) by which the First Appeal came to be dismissed for non removal of office objections.

3 The learned counsel for the Applicant submits that the office has raised objection about non payment of court fees. She submits that the Advocate had paid the court fees to the concerned clerk however, he failed to deposit the same in the court. Therefore, the matter came to be dismissed. Thereafter the concerned advocate has filed a complaint against the clerk with the Registrar General, who has taken action against the said Clerk. She submits that because of mistake on the part of the clerk, the matter got dismissed. She submits that

the Applicant would deposit the entire court fees within four weeks from today. She submits that the Applicant has good chance of success in the matter. Hence, the matter may be restored to file for hearing on merits.

4 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Civil Application and because of mistake on the part of the Clerk, the litigant should not suffer, I am satisfied that the Applicant has made out a case for allowing the Civil Application, however, on payment of costs of Rs.5000/-.

5 Hence, following order is passed.

a. Order dated 09.06.2015 passed by the Registrar Judicial (II) is set aside.

b. The First Appeal is restored to file.

c. The Applicant to remove all office objections in the First Appeal on or before 20.06.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

d. The Applicant to pay costs of Rs.5000/-.

e. Costs shall be paid to the Kirtikar Law Library, High Court, Mumbai on or before 06.07.2019 and place a receipt thereof on record, failing which the

Civil Application shall stand dismissed without further reference to the court.

e. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)