

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

**CIVIL APPLICATION NO.5148 OF 2011
IN
FIRST APPEAL (ST) NO.21526 OF 2009**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	mCourt's or Judge's orders
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Mr.Dushyant Purekar for the applicant

Ms.Saroj Ghatage I/b M/s.Vigil Juris for the respondent no.1

Ms.Sebastiana Alemao for the respondent no.4

Mr.Yogesh Dabake, A.G.P. for the respondent no.5

**CORAM : K. K. TATED, J
DATE : MARCH 22, 2019**

P.C.:

. Heard.

2 By this Civil Application applicant is seeking restoration of Civil Application No.4278 of 2005 in First Appeal No.4279 of 2005 which stands dismissed in view of conditional order dated 20.01.2006 passed by

this court for non-removal of office objection.

3 The learned counsel for the applicant submits that there is a delay on their part to file Civil Application because of mistake on the part of earlier advocate. He submits that when impugned order dated 20.01.2006 was passed by this court, neither earlier Advocate nor applicant was present before this court. Therefore, it remained on their part to remove all office objection. He submits that applicant as well as earlier advocate was under impression that matter was pending for hearing on its own merits. In support of this contention, he relies on paragraph 3 to 6 of Civil Application. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing Civil Application and restore Civil Application which stands dismissed in view of conditional order dated 27.01.2006.

4 On the other hand, the learned counsel for the Respondent no.4 vehemently opposed the present Civil Application. She submits that there is a delay of more than 5 years in filing Civil Application. She submits that applicant has not shown sufficient cause for condonation of more than 5 years delay. She submits that even name of earlier advocate is not disclosed

who failed and neglected to inform the applicant about the conditional order and hence, there is no substance in the present Civil Application. Therefore, same is required to be dismissed with costs.

5 It is to be noted that in the present proceeding, this court by order dated 20.01.2006 directed parties to remove all office objection. That order was conditional. The present Civil Application is filed on 23.06.2011 i.e. after delay of more than 5 years and 145 days. Bare reading of the Civil Application shows that applicant has taken this in a casual manner. There is not a single letter that applicant has written to earlier Advocate calling upon him to explain why he remained absent when the matter was on board before this court. Not only that applicant has not disclosed name of advocate who failed and neglected to take interest in favour of applicant. There is no explanation for condonation of delay of more than 5 years in the present Civil Application.

6 In view of these facts, I do not find any substance in the present Civil Application. Same is dismissed.

(K.K. TATED, J.)