

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2136/2019
IN
FIRST APPEAL NO.869/2014

Marathon Realty Pvt. Ltd. Applicant.

Vs.

Sumer S. Gaikwad & Anr. ... Respondents.

Adv. Raghav Gupta a/w Kashish i/b Wadia Gandhi & CO.
for applicants/appellants in Civil application no.2134/19,
C.A. 2135/19 and C.A. 2136/2019.

Counsel Mr. Chirag Modi a/w Rishi Soni a/w Adv.S.M.
Seegarla for respondents i/b RMG Law Associates.

CORAM : K.K.TATED, J.

DATED : JULY 18, 2019.

P.C.

Heard learned counsel for parties.

2. By this civil application the applicant is seeking to recall order dated 18.7.2018 passed by learned Registrar (J-II) by which the first appeal stands dismissed for non removal of office objections i.e. supply copy of first appeal and for payment of printing charges.

3. Learned counsel Mr.Raghav Gupta for applicant submits that inadvertently it remained on their part to remove office objections as per order dated 18.7.2018. He submits that the applicant undertakes to remove all office objections within two weeks from today.

4. Learned counsel for applicant submits that if first appeal is not restored, irreparable loss will be caused to the applicant. He submits that they have good chance of success. He submits that in the interest of justice, this Court be pleased to condone the delay in filing civil application and for non removal of office objections.

5. On the other hand, learned counsel appearing on behalf of respondent vehemently opposed present civil application. He submits that applicant has not shown sufficient cause for condonation of delay. He submits that there is no substance in the civil application and same is required to be dismissed.

6. Heard both sides. It is to be noted that because of mistake on the part of the advocate, litigant should not suffer. As the applicant undertakes to remove all office objections within two weeks from today, I am satisfied that applicant has made out a case for allowing civil application.

But at the same time ,they have to pay cost of Rs.10,000/-.

8. Hence, the following order.

- a) Delay in filing civil application is condoned.
- b) Order dated 18.7.2018 passed by learned Registrar (J-II) is set aside.
- c) Applicant to remove all office objections in first appeal on or before 31.8.2019 failing which first appeal and civil application shall stand dismissed without referring back to the court.
- d)Applicant to pay cost of Rs.10,000/-
- e)Cost to be deposited in Kirtikar Law Library, High Court, Main building, Mumbai on or before 16.8.2019 and place on record receipt thereof, failing which, the civil application shall stand dismissed without referring back to the court.
- f)Ad-interim relief, if any, to continue till further orders.
- g)Civil application allowed accordingly.

(K.K.TATED, J.)

