

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

CIVIL APPLICATION NO.323 OF 2019

IN

REJECTED CASE NO.970 of 2018

Mahendra Jain

...Applicant

Versus

Tamiland Mercantile Bank Ltd.

...Respondent

.....

Ms Priya Mohan Lal i/b. Ms Neha Mehta for the Applicant.

None for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 1st OCTOBER, 2019.

P.C.:-

By this application, the Applicant has sought to restore the application for condonation of the delay, which was dismissed for non compliance of the conditional order dated 6th December, 2017.

2. By order dated 6th December, 2017 two weeks' time was granted to the Applicant to furnish copy of the application to be served on the sole Respondent. The Applicant was notified that failure to furnish copy of the application within the stipulated time would result in dismissal of the application. Non furnishing the copy of the application resulted in dismissal of the application by order dated 6th December, 2017.

3. The learned counsel for the Applicant has stated that the clerk, who was engaged to remove the objections had gone to the village and due to inadvertence on the part of the Advocate on record, objections remained to be removed. He further states that the Advocate on record learnt about dismissal only on checking the status of the appeal. The learned counsel for the Applicant makes a statement that she will furnish copy of the civil application within a period of two weeks. Statement is accepted.

4. In the light of the said statement and in view of the reasons stated in paragraphs 3 to 6 of the application, the delay is condoned. The order of dismissal is recalled and the Civil Application No.2170 of 2017 and First Appeal (stamp) No.17298 of 2016 are restored to file subject to payment of cost of Rs.5,000/- to be paid to the Juvenile Justice Fund within a period of two weeks.

5. The Civil Application No.323 of 2019 stands disposed of.

6. List the Civil Application No.2170 of 2017 in First Appeal (stamp) No.17298 of 2016 on **11/11/2019**.

(SMT. ANUJA PRABHUDESSAI, J.)