

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

**CIVIL APPLICATION NO. 2084 OF 2017
IN
FIRST APPEAL 132 OF 2015**

Smt. Seema Sunil Shimpi

...Applicant.

V/s.

Shri. Sunil Laxman Shimpi

...Respondent.

Ms. Ameeta Kuttikrishan, Advocate for the Applicant.

**CORAM : K.K.TATED, J.
DATED : AUGUST 30, 2019**

P.C.

1. Heard learned counsel for the Applicant.
2. Though, the Respondent is duly served, no one appeared on behalf of him when the matter was called out.
3. By this Civil Application, the Applicant is seeking restoration of Civil Application No. 3335 of 2016 and Civil Application No.3334 of 2016 and First Appeal No. 132 of 2015 which stands dismissed in view of conditional order dated 14.02.2017, for non filing affidavit of service within the time.
4. Learned counsel for the Applicant submits that, this Court by order dated 14.02.2017 allowed the Civil Application No. 3335 of 2016 and restored the First Appeal No. 132 of 2015 for hearing on merits on condition that to file Affidavit of Service within two days.

She submits that, by mistake affidavit of service was filed in other proceeding. Therefore, the present First Appeal as well as Civil Application No. 3335 of 2016 stands dismissed for non compliance of conditional order dated 14.02.2017.

5. The learned counsel for the Applicant submits that, she has already complied order dated 14.02.2017. She submits that in the interest of justice, this Hon'ble Court be pleased to restore the First Appeal No. 132 of 2015 for hearing on merits and extend the time to comply the order dated 14.02.2017.

6. Considering the fact that, the Advocate for the Applicant is complied the order dated 14.02.2017 which was extended on 23.02.2017, I am satisfied that the Applicant has made out a case for allowing the Civil Application. Hence, the following order is passed:-

A) The Application is allowed in terms of prayer clause (a) and (b) which reads thus:-

“(a) The Civil Application No.3335 of 2016 for Condonation of delay and Civil Application No.3334 of 2016 for Restoration filed in First Appeal No.132 of 2015, may kindly be restored to the file of this Hon'ble Court.

(b) Upon restoration of the Civil

Application No.3335 of 2016 for Condonation of delay and Civil Application No.3334 of 2016 for Restoration, First Appeal No.132 of 2015, may kindly be restored to the file of this Hon'ble Court."

- B) Civil Application stands disposed of accordingly.
- C) No order as to costs.

(K.K.TATED, J.)