

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

**CIVIL APPLICATION NO.2440 OF 2019
IN
FIRST APPEAL (ST.) NO.18980 OF 2019**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Minal Chandnani for the applicant
Ms.Sheetal Mane for the BMC

**CORAM : K. K. TATED, J
DATE : JULY 10, 2019**

P.C.:

. Not on board. At the request of Advocate for the applicant, matter is taken on production board for urgent orders.

2 By this Civil Application, applicant is seeking condonation of 37 days delay in filing First Appeal challenging the judgment and order dated 10.04.2019 passed by Bombay City Civil Court at Bombay in L.C.Suit No.3215 of 2015 dismissing applicant original plaintiff's Suit for declaration that notice dated 9.9.2014 issued by Corporation under section 351 of the

Mumbai Municipal Corporation Act, 1888 and order dated 21.11.2014 is bad in law.

3 The learned counsel for the applicant submits that because of ill-health of the applicant, there is a delay in filing First Appeal. In support of this contention, he relies on certificate issued by Dr.O.R. Kalantri at Exhibit 'A'. The learned counsel for the applicant submits that in the interest of Justice, this Hon'ble Court be pleased to condone the delay and matter be heard on its own merits. She submits that if delay is not condoned, irreparable loss will be caused to the applicant.

4 On the other hand, the learned counsel for the respondent Corporation vehemently opposed the present Civil Application. She submits that applicant has not shown sufficient cause for condonation of more than 37 days delay in filing First Appeal.

5 Heard.

6 It is to be noted that in the present proceeding, applicant applied for certified copy on 16.04.2019 and same was ready for delivery on 04.05.2019. That was collected on 05.05.2019 and so the present First Appeal is delayed by more than 37 days.

7 Considering the submissions made by the

learned counsel for the Applicant and the averments made in Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application but at the same time, applicant have to pay cost of Rs.25,000/-. Hence, following order is passed:

- a. Delay in filing Civil Application is condoned.
- b. Applicant to pay cost of Rs.25,000/-.
- c. Cost to be deposited in the office of Kirtikar Law Library, High Court, Bombay on or before 31.07.2019 and place on record receipt to that effect, failing which First Appeal shall stand dismissed without referring back to the court.
- d. Civil Application stands disposed of accordingly.
- e. No order as to costs.

(K.K.TATED, J.)