

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

**CIVIL APPLICATION NO. 258 OF 2019
IN
FIRST APPEAL (ST.) NO. 10715 OF 2018**

Madhukar Bhiva Gaikwad Applicant.

Vs.

Sadashiv Shankar Jadhav & Ors. Respondents.

.....
Ms. Babita Pandey i/b Vikas S. for the Applicant.
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**CORAM : K.K.TATED, J.
DATED : JULY 23, 2019**

P.C.

1 Not on board. As per praecipe dated 23rd July, 2019 filed by the Advocate for the Applicant, matter is taken on production board.

2. By this Civil Application, the Applicant is seeking restoration of the Civil Application No. 3242 of 2018 and 3243 of 2018 and First Appeal Stamp No. 10715 of 2018 which stood dismissed for non prosecution by order dated 3rd May, 2019.

3. Considering the submission made by the Learned Counsel for the Applicant and because of the mistake on the part of the Advocate, litigant should not suffer, I am satisfied that the Applicant has made out case for allowing this Civil

Application, but at the same time the Applicant has to pay cost of Rs. 4,500/- as a delay in filing Civil Application. Hence, the following order is passed:

- a. The delay in filing the Civil Application is condoned.
- b. The order dated 3rd May, 2019 passed by this Court is recalled.
- c. Civil Application No. 3242 of 2018, Civil Application No. 3243 of 2018 and First Appeal Stamp No. 10715 of 2018 is restored on file for hearing on its own merits.
- d. The Applicant to pay the cost of Rs. 4,500/-.
- e. The cost to be paid to Kirtikar Library, First Floor, Appellate Side, Bombay High Court on or before 3rd August, 2019 and place on record the receipt to that effect, failing which Civil Application shall stand dismissed without further reference to the Court.
- f. Civil Application is disposed of accordingly.

(K.K.TATED, J.)