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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 3674 OF 2017****IN****FIRST APPEAL NO. 1189 OF 2012**

The Municipal Corporation of Greater
Bombay

.....Applicant

V/s.

Brahmadatt Rameshwar Tiwari
(Deleted since deceased)
Shakuntala B. Tiwari(Since deceased)
Mr. Mahesh. B. Tiwari and others

.....Respondents

Ms. Oorja Dhond for the applicant
None for the respondents

CORAM : K. K. TATED, J.

DATE : MARCH 15, 2019.

P.C.

Heard the learned counsel for the applicant.

2 By this Civil Application, applicant is seeking to set aside the order dated 09/01/2015 passed by the learned Registrar Judicial -II

by which First Appeal No. 1189 of 2012 was dismissed against respondent nos. 3 to 5 for want of service.

3 The learned counsel for the applicant submits that it remained on their part to take appropriate steps immediately for service on respondent nos. 3 to 5. She further submits that they tried to find out present correct address of these respondents. She submits that in this process, there was delay on their part.

4 The learned counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to set aside the order dated 09/01/2015 and restore the First Appeal against respondent nos. 3 to 5 and permit the applicant to serve respondent nos. 3 to 5 by publication in newspaper as per Order V Rule 20 of the Code of Civil Procedure, 1908. She submits that if Civil Application is not allowed, irreparable loss would cause to them.

5 Considering the submissions made by the learned counsel for the applicant, averments made in Civil Application and as applicant

wants to serve respondent nos. 3 to 5 as per Order V Rule 20 of the Code of Civil Procedure, 1908, I am satisfied that applicant has made out case for allowing Civil Application. Hence, following order:

(I) Delay of 2 years and 226 days in filing Civil Application is condoned.

(II) Order dated 09/01/2015 passed by Registrar (Judicial-II) is set aside.

(III) First Appeal No. 1189 of 2012 is restored on file against respondent nos. 3 to 5.

(IV) Applicant to serve respondent nos. 3 to 5 as per Order V Rule 20 of the Code of Civil Procedure, 1908 by publishing in two leading newspapers, one in English and one in regional language on or before 29/06/2019 and file affidavit of service to that effect, failing which Civil Application shall stand dismissed without referring back to the Court.

(V) Civil Application stands disposed of.

[K. K. TATED, J.]