

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

**CIVIL APPLICATION NO.4409 OF 2018
IN
FIRST APPEAL NO.856 OF 2003**

Lalman Bachu Tripathi

...Applicant

Versus

Ramdular Vidnath Kahar (since
deceased through legal heirs and
representatives)

1a. Mr. Vijaykumar Ramdular Kahar
and ors.

...Respondents

.....

Ms Aditi Naikare I/b. Mr. Pradeep J. Thorat for the Applicant.

Ms Swati Sawant I/b. Mr. H.V. Bhadbhade for the Respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 22nd FEBRUARY, 2019.

P.C.:-

By this application, the Applicant has sought to condone delay of 1 year and 111 days in filing the restoration application and to recall the conditional order dated 5th July, 2017 passed in First Appeal No.856 of 2003.

2. By order dated 5th July, 2017 the Registrar-Judicial had passed a conditional order directing the Applicant to deposit paper book charges in lower court. The Applicant was informed that on failure to deposit the said amount the Appeal would stand dismissed.

The Applicant did not deposit the said amount within the stipulated period and as a consequence thereof the appeal has been dismissed for non compliance of the said directions.

3. The learned counsel for the Applicant has stated that the Advocate on record had not informed the Applicant about the said conditional order and hence he could not comply with the conditions. The Applicant has stated that he learnt about the said order only in the month of October-2018.

4. The learned counsel for the Applicant also submits that the Applicant will furnish the paper book within a period of four weeks with copy to the other side. Statement is accepted.

5. Considering the above statement and in view of the reasons stated in paragraphs 6 and 7 of the application, the delay is condoned. The order dated 5th July, 2017 is recalled and the appeal is restored to file subject to cost of Rs.10,000/- to be paid to the Respondent.

6. The application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)