

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Interim Application No.1/2019
in
Rejected Case no.1725/2019
in
First Appeal No.4227/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Ms. Sneha Meshram I/b. NDB Law for the Applicant	

CORAM: K.K.TATED, J.
DATED : OCTOBER 14, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 This Application is for condonation of 80 days delay in filing the Civil Application for restoration of the First Appeal which stood dismissed in view of conditional order dated 14.06.2019 passed by the learned Registrar (Judicial-II).

3 The learned counsel for the Applicant submits that in the present proceedings they filed the First Appeal challenging the judgment and decree dated 26.10.2018 passed by the Bombay

City Civil Court at Mumbai in Summary Suit No.4361/2010 holding that the Respondent-Claimant is entitled to sum of Rs.3,15,877.69 with interest @ 6% p.a.

4 The learned counsel for the Applicant submits that in the present proceedings the learned Registrar (Judicial-II) had passed an order dated 14.06.2019 directing the Applicant to remove all Office objections within four weeks from the date of order. She submits that it remained on their part to do so. Hence, the matter stood dismissed for non prosecution. She submits that their clerk did not inform the advocate on record about the conditional order and therefore, it remained on their part to take out appropriate application immediately. Hence, there is delay in filing the Interim Application.

5 Considering the submissions made by the learned counsel for the Applicant and because of mistake on the part of the Advocate's Clerk the litigant should not suffer, I am satisfied that the Applicant has made out a case for allowing the Interim Application, however, on payment of cost of Rs.5000/-.

6 Hence, following order is passed:

- a. Delay condoned.
- b. Order dated 14.06.2019 passed by the learned Registrar (Judicial-II) is set aside.
- c. The First Appeal is restored to file for hearing on merits.
- d. The Applicant is directed to remove all office objections on or before 16.11.2019, failing which the Interim Application shall stand dismissed without further reference to the court.
- e. The Applicant to pay cost of Rs.5000/-.
- f. Cost shall be paid to the Kirtikar Law Library, High Court, Mumbai and place a receipt thereof on record on or before 08.11.2019, failing which the Interim Application shall stand dismissed without further reference to the court.
- g. The Interim Application stands disposed of accordingly.
- h. No order as to costs.

(K.K.TATED, J.)