

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

***CIVIL APPLICATION NO.410 OF 2019
IN
SECOND APPEAL (ST) NO.4834 OF 2017***

Vasant Dhondu Asawale
(Deceased thru LRs)

... Applicant

Vs

Shri Manohar Revadmal Gupta

... Respondent

...

Mr. Y.Y.Dabke i/by Mrs. Veera Shinde for the Applicant.
Applicant present in-person.

***CORAM : SANDEEP K. SHINDE J.
DATE : 22 MARCH, 2019***

P.C. :

Heard learned counsel for the applicant. Applicant is present in the Court.

2 Proceedings in this Second Appeal were produced before this Court on 20th March, 2019. After hearing learned counsel for sometime, office was directed to list this application on today's board.

3 Appellant-Applicant seeks restoration of the Second Appeal (St) No.4834 of 2017 which came to be dismissed in view of the self-operative order passed by the Registrar (Judl-II) on 8th February, 2018 for non-removal of office objections.

4 It is the applicant's grievance that their Advocate Mr. Kalantri has neither removed office objections nor informed them status of the proceedings in Second Appeal. It is the applicant's case that they requested Advocate Kalantri to endorse 'no objection' for engaging another lawyer. It is his case that he tried his level best to pursue Mr. Kalantri for obtaining 'no objection' so as to enable him to proceed with the pending Second Appeal by appointing another advocate. Applicant has filed affidavit sworn on 5th March, 2019 stating efforts taken by him to obtain 'no objection' from Advocate Kalantri. Besides, he has also placed on record xerox copies of the letters and postal acknowledgments and other documents vide which efforts were made to obtain NOC from Advocate Kalantri. Copies of the letters are taken on record and marked 'X' Collectively.

Affidavit sworn on 5th March, 2019 is marked Exhibit 'X-1' Collectively.

5 I have gone through the letters and the application and I am satisfied that the case is made out for granting prayers (i) and (ii).

6 That for the reasons stated in the application, delay caused in preferring this application, is condoned and the appeal is restored to the file. The learned counsel for the applicant on instructions undertakes to remove all the office objections within a period of three weeks from today. Undertaking is accepted.

7 Considering the peculiar facts of the case, Registry is directed to accept the vakalatnama of Advocate Mr. Dabke duly signed by the applicant/appellant in the Second Appeal St No.4834 of 2017 without insisting upon No Objection of Advocate Kalantri.

8 It is made clear that if the office objections are not removed within the stipulated period as stated above, the appeal shall stand dismissed automatically without further reference to the Court.

9 The Civil Application is allowed in the aforesaid terms.

(SANDEEP K. SHINDE, J.)