

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO.14908 OF 2019
IN FIRST APPEAL NO.3457 OF 2011

MANJUSHA VINAYAK JIRWANKAR
VERSUS
JAGIRSINGH DHARAMSINGH RANDHAVA & ANOTHER

...
Advocate for Applicant : Mr.B.N.Gadegaonkar
h/f.Mr.M.V.Ghatge
...

CORAM : V.L.ACHLIYA,J.
DATE : 16.01.2020

P.C.

1] This application is filed for seeking restoration of the Appeal, dismissed vide order dated 26.11.2019 passed by the Registrar [Judicial].

2] Heard learned counsel for the applicant. Perused the order dated 26.11.2019.

3] In brief, it is the contention of the learned counsel for the applicant-appellant that steps could not be taken in the matter to serve respondent no.1 as the applicant has lost both legs in the accident. She could not secure the address of the

respondent no.1 so as to take steps to serve respondent no.1. It is submitted that the applicant has not secured recent address of the respondent no.1. If the order is set aside and application is restored, no serious prejudice would cause to the respondents.

4] Although the reasons assigned for not taking steps for more than 5 years are not convincing, I am of the lenient view that appeal deserves to be taken into consideration on merits and application deserves to be restored. Perusal of the judgment reveals that she has lost both legs on account of accidental injuries. If the order is not recalled, a meritorious matter of the applicant may be dismissed for not taking steps against respondent no.1. So far as prejudice caused to the respondent Insurance Company, the same can be met by passing conditional order that the applicant-appellant shall not be entitled for the interest from the date of filing of the appeal till service of notice to the respondent no.1. Accordingly, the application is allowed in terms of prayer clause-A, subject to condition that the applicant-appellant shall take necessary steps within

two weeks from today and further the applicant-appellant shall not be entitled for the interest from the date of filing of the appeal till service to the respondent no.1.

5] Civil Application is disposed of in above terms.

6] List the Appeal on 21.02.2020.

[V.L.ACHLIYA]
JUDGE

DDC