

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

**CIVIL APPLICATION NO. 753 OF 2016
IN
FIRST APPEAL NO. 971 OF 2010**

Subhash Baban Jagtap ... Applicant/Appellant.
Versus
M/s. S.S. Patil and Sons and Ors. ... Respondents.

Mr. D.D. Shinde, for the Applicant.
None for the Respondents.

CORAM : V. G. BISHT, J.

DATED : 24TH JANUARY, 2020.

PC.

The applicant/appellant seeks condonation of delay in preferring the present application, setting aside the order dated 21/10/2010 passed by the learned Registrar (Judicial-I) thereby dismissing the Appeal for non compliance of the order dated 25/08/2010 and restoration of the Appeal.

2 Heard learned counsel Mr. D.D. Shinde for the applicant. None for respondents though duly served.

3 It appears that while admitting the First Appeal No. 971 of 2010, this Hon'ble Court (CORAM: B.H. MARLAPALLE & A.A. SAYED, JJ.) had directed dispensing of printing if the private paper book copies were filed

within two months from that day i.e. 25/08/2010. I may state here that this is a normal practice where the hearing of Appeal is to be expedited and on the assurance given by the learned counsel for the appellant about making available the private paper books within stipulated time as suggested by him/her. This being so, the order quoted herein-above came to be passed accordingly. However, it seems that as the order was not complied, Appeal was dismissed by the learned Registrar (Judicial-I).

4 The justification given in the application is that as the order dated 25/08/2010 was not available on the official web-site of the High Court, the learned counsel for the applicant was therefore, not aware of the conditions imposed by the said order. This explanation is far from truth inasmuch as, as already noted by me, the order must have been passed with the understanding that the learned counsel would supply the copies of paper books within two months from the date of passing of the order. It is also not the case that the applicant was also not aware of the order so passed by the Court or that he was never informed about the order so passed by the Court on 25/08/2010. Thus, there is gross negligence on the part of the applicant and as well as his counsel. However, having regard to the fact that the Appeal was preferred against the Judgment and Order of Additional Member of M.A.C.T. Pune, in my considered opinion,

the application deserves to be allowed subject to the payment of costs.

5 Accordingly, delay of 4 years 283 days stands condoned, order passed by the learned Registrar (Judicial-I) on 21/10/2010 is set aside and the Appeal is restored to its original position subject to applicant depositing the costs of Rs.10,000/- with the office of Juvenile Justice Fund and furnishing of paper book.

6 Civil Application stands disposed of accordingly.

7 Stand over on 21st February, 2020.

(V. G. BISHT, J.)