

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2728 of 2021
IN
FIRST APPEAL NO.39 OF 2018

M/s.Kokare Brothers (Engineers
& Constructions) thru its prop.
Mr.Manik s/o Baburao Kokare
and Anr

.. Applicants

Versus

The State of Maharashtra thru
Secretary Public works Dept

.. Respondents

...

Mr. Anand Patwardhan with Komal Gosavi, Akanksha Sarpole i/b
M/s.J.J. Associates for the applicant.
Ms.Tanaya Goswami, AGP for respondent no.1.

CORAM: BHARATI DANGRE, J.
DATED : 17th NOVEMBER, 2021

P.C:-

1 Interim Application No. 2728 of 2021 is filed for restoration of First Appeal No. 39 of 2018 which came to be dismissed on account of non-compliance of the order passed on 24th July 2019. First Appeal was admitted on 24th July 2019 and while admitting the same, the applicant was directed to file private paper book within one year from the date of the order failing which the Appeal was liable to be dismissed without

Tilak

reference to the Court. Since the appellant failed to file the paper book within the period stipulated in terms of the order dated 24th July 2019, the Appeal was dismissed.

2 By the aforesaid application, restoration of the Appeal is sought and the justification for not filing the paper book in terms of the directions of this court is set out in paragraph nos.3 and 4 of the Application.

3 On perusal of the recitals in the Application, it is apparent that the applicant has made a statement that the private paper book was prepared and handed over to the clerk to file it in the Registry. Since the National Lock down was imposed from 22nd March 2020, paper book could not be filed. When a praecipe was moved for extension of time to file the paper book, this Court directed to take out an appropriate application since the Appeal was already dismissed.

4 On perusal of the application, I deem it appropriate to restore the First Appeal which was admitted by this Court on 24th July 2019. The restoration is, however subject to the condition that the paper book shall be filed in the Registry within a period of four weeks from today.

5 In filing the application for restoration, there is a delay of 311 days, which deserves to be condoned. Necessarily, Interim Application No. 2728 of 2021 is made absolute in terms of prayer clauses (b) and (c).

SMT. BHARATI DANGRE, J