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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 425 OF 2020
IN
REJECTED CASE NO. 430 OF 2010**

Union of India through the
Division Manager Western Railway

.....Applicant

V/s.

Sunanda Yashwant Sasalekar,
Rakikar Raya Sasalkar

.....Respondent

Ms. Neeta V. Masurkar Advocate for the Applicant

CORAM : GAURI GODSE, J.

DATE : 12th September, 2022.

P.C.

1. Heard Ms. Masurkar, Advocate for the Applicant. This Application is filed for restoration of Civil Application No. 778 of 2009 for condonation of delay in filing the First Appeal Stamp No. 2886 of 2009. By an order dated 20th July 2009, Civil Application No. 778 of 2009 was dismissed in default. Office remark shows that original papers of First Appeal are already destroyed.

Today, the Application and Farad is placed before me.

2. Perusal of present Application shows that First Appeal was filed on 2nd February 2009 for challenging the Judgment and Order dated 30th March 2007 passed in Application (WCA)/327/A-50 of 2021 passed by Second Additional Commissioner for Workman's Compensation at Mumbai. By the said order, Applicants were directed to deposit the interest amount at the rate of 12% per annum of Rs. 1,35,560/- from 9th September 1996 till the date of realization and further directed to deposit amount of 50% of Rs. 1,35,560/- towards penalty.

3. Learned Advocate for the Applicant on instructions states that concerned officer is not in position to make a positive statement that whether the amount as per the impugned Judgment in the First Appeal is paid to the claimants.

4. Considering the grounds made out in the Application, following order is passed.

(i) Application is allowed in terms of clause (a) subject to Applicant depositing amount as per the Judgment and Order dated 30th March 2007 passed in Application (WCA)/327/A-50 of 2021 before Second Additional

Commissioner for Workman's Compensation at Mumbai within period of 8 weeks from today. Prayer clause (a) reads as under;

“(a) This Hon'ble Court be pleased to allow the Civil Application for restoration of C.A. No. 778 of 2009 for Condonation of Delay in First Appeal (st) No. 2886 of 2009 and First Appeal (st) No. 2886 of 2009 and CA No. 779 of 2009.”

(ii) Applicant is directed to file compliance affidavit within period of two weeks after depositing the entire amount, if not yet deposited/paid. After such compliance affidavit being filed, Civil Application No. 778 of 2009, First Appeal Stamp No. 2886 of 2009 and Civil Application No. 779 of 2009 will stand restored to file.

(iii) Applicant is directed to file entire set of First Appeal compilation within period of 4 weeks from today along with fresh certified copies of impugned Judgment and Order in the First Appeal.

(iv) Thereafter Registry to verify copies filed and on verification shall reconstruct the record of First Appeal Stamp No. 2886 of 2009.

5. Subject to above directions, Civil Application is allowed.

[GAURI GODSE, J.]