

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO.1790 OF 2023****IN****CRIMINAL APPLICATION NO.190 OF 2023**

Brijmohan Tejaram Thori

..... Applicant

V/s.

The State of Maharashtra & Anr.

..... Respondents

Mr. Shyam K. Tripathi i/b Mr. Vivek B. Pandey for the Applicant.

Mrs. M. H. Mhatre, APP for Respondent No.1.

Mr. Aarif Ali for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.****DATE : 26th SEPTEMBER, 2023.****P.C.:-**

1) Present Application is filed for condonation of delay and for restoration of Criminal Application (ST) No.21939/2022. Record indicates that *vide* Order dated 7th January 2023, the co-ordinate Bench (Coram: Revati Mohite Dere & Prithviraj K. Chavan, JJ.) had directed Advocate for Applicant to supply spare copies of Application in the Registry within a period of two weeks, failing which Application shall stand dismissed for want of prosecution, without further reference to the Court.

2) According to us, the period of two weeks from 7th January

2023 would come to an end on 21st January 2023. Exhibit C (Page 10) to the Application clearly discloses that, the said Application has been dismissed for non compliance with the conditional Order on 7th January 2023 itself. Exhibit B (page 9) to the Application discloses that learned Advocate for Applicant submitted spare copies in the Registry on 17th January 2023. There is an acknowledgment by the Section Officer, High Court, Appellate Side, Bombay to that effect.

3) Thus, it is clear that Applicant had in fact complied with the Order dated 7th January 2023 by submitting necessary spare copies in the Registry within the stipulated period.

4) Despite the said fact, Registry has dismissed the said Application for non-compliance with Order dated 7th January 2023 and has uploaded the case status as dismissed for non-compliance of conditional Order on the official website of the High Court.

According to us this is a matter of serious concern. Despite having complied with the conditional Order dated 7th January 2023, undue inconvenience and harassment has been caused to the Applicant who, is constrained to file Application for restoration resulting in delay and costs. We therefore direct the Registrar Judicial-I to conduct in-depth inquiry into the said lapse on part of Registry and submit its Report to this Court on or before the next date.

- 5) Stand over to 13th October 2023.
- 6) In view of the aforesaid observations, present Application for restoration deserves to be allowed and is accordingly allowed in terms of prayer clauses (a) and (b).
- 7) Learned Advocate waives notice on behalf of Respondent No.2 and submitted that he has already filed his *vakalatnama* on behalf of Respondent No.2. Therefore direction to supply spare copy as of today does not survive.

(SHARMILA U. DESHMUKH, J.)

(A. S. GADKARI, J.)