



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.30 OF 2022
IN
SECOND APPEAL NO.79 OF 2013

Mubarak/Hamidulla Abdulrehman Momin ... Applicant.

Versus

Illaeatulla/Hidaytulla

Abdulrehaman Momin and Ors. ... Respondents.

Mr. Ajay Raje Nimbalkar i/by Mr.S.S.Patwardhan, for Applicant.
Ms.Pallavi A. Karanjkar h/f. Mr. Sandeep Koregave, for the
Respondent Nos.1, 2 and 4.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : FEBRUARY 16, 2024

P. C.:

1. Civil Application has been preferred to set aside the abatement qua the Respondent No.3 and for condonation of delay of 2 years 135 days caused in preferring the Civil Application and to substitute the address of Respondent No.3 in the cause-title. Learned counsel appearing for the Applicant submits that as per the order of this Court, the Respondent No.3 has been duly served. Today, none appears for the Respondent No.3. Learned counsel for the Applicant submits that the conditional order dismissing the

Appeal qua Respondent No.3 came to be passed as the new address of the Respondent No.3 was not known and as such, the Respondent No.3 could not be served. He submits that subsequently, he has found the new address of the Respondent No.3 and the present application has been filed, although after a delay of 2 years 135 days.

2. The conditional order was passed as the Respondent No.3 was not served by the Applicant. The Applicant has given sufficient reason for not serving the Respondent No.3, as he was not aware of the new address of the Respondent No.3.

3. For the reasons above, the conditional order dated 22nd July, 2024 passed by the Registrar Judicial (II), is recalled and the delay caused in filing the present Application is condoned. The abatement *qua* the Respondent no.3 is set aside. The Appellants are permitted to amend the Appeal and substitute the address of the Respondent No.3.

4. Civil Application stands allowed.

(Sharmila U. Deshmukh, J.)