

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

**INTERIM APPLICATION NO. 2114 OF 2019
IN
FIRST APPEAL (st) NO. 16507 OF 2016**

Smt. Nayana Mukesh Kothari

... Applicant/Appellant

Vs.

M/S. Yashodhan Development Corporation And

... Respondents

Ors.

Adv. Makrand Kale, for the Appellant/Applicant.

None for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 12th March, 2024

P.C.:-

1. Not on Board. Taken on board. This Application is filed for restoration of Civil Application No. 395 of 2017 in FAST/16507 of 2016. The First Appeal came to be filed in this Court, however the same came to be dismissed for default. The Applicant therefore filed an Application bearing Civil Application No. 395 of 2017, for restoration however that Application also came to be dismissed for default as the same was not prosecuted by Order dated 11th October, 2018.

2. This Application is therefore filed for restoration of Civil Application No. 395 of 2017. While filing this Application there is delay of 293 days in filing the present Application since in the First Appeal none has

yet appeared and no notices were issued this Application is taken without issuing notice to the Respondents in the First Appeal.

3. It is stated that on 11th October, 2018, in the Order of dismissal of First Appeal was not noticed as therefore no Application could be filed immediately for restoration. Civil Application No. 395 of 2017, was therefore filed after some lapse of time.

4. On 11th October, 2018, the said Civil Application was on board however the learned Advocate could not remain present when the matter was called out. Unfortunately however due to inadvertence even this Order dated 11th October, 2018, went renoticed after realizing the Application for restoration is filed however there is again delay of 293 days as stated above.

5. For the reasons stated in the Application, this Application stands allowed.

6. Civil Application No. 395 of 2017 stands restored and place this Application on board 5th April, 2024.

7. Interim Application stands allowed and disposed of in the above terms by condoning the delay.

(KISHORE C. SANT, J.)