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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 14052 OF 2024
IN
CIVIL APPLICATION NO. 2856 OF 2016
IN
FIRST APPEAL (ST) NO. 16179 OF 2016

Nawman Malik
Versus
Marie D' Mello

...Applicant/Appellant
...Respondent

Mr. Ritesh singh i/b. Mr. Sanjeev Singh for the Applicant.
None for Respondents.

CORAM : M.M. SATHAYE, J.

DATE : 23rd DECEMBER, 2025

P.C. :

1. Heard learned counsel for the Applicant. This is an application for setting aside the rejection of application for delay condonation which was granted conditionally under the order dated 12.01.2024 passed in CA/2856/2016.

2. Perusal of the said order shows that the condition upon the Applicant was to pay costs of Rs.10,000/- to the Respondent within stipulated time. Learned counsel for the Applicant invited the Court's attention to the statements made in paragraph Nos.2 & 3 of the application, to contend that when the amount of costs was sought to be tendered through a cheque, at the address of the Respondent, she was not found and it was informed by one Mr. Pandey (who was available at the said address) that the Respondent has already sold the said premises and shifted to Goa. It is stated in the paragraph

No.3 that the advocates of the Respondent was also sought to be contacted personally. However, their office was found closed.

3. It is further stated that in the meantime, the Applicant was required to travel for professional work and was undergoing medical treatment and therefore he was unable to contact the advocate. It is stated that recently he was informed that for non supply of proof of payment of costs, the application has been rejected.

4. It is seen that when the conditional order was passed on 12.01.2024, nobody had appeared for the Respondent though served. As such, no useful purpose will be served by sending notice to the Respondent. Instead, the costs can be directed to be deposited in the Court and the Respondent can be set at liberty to withdraw the same.

5. In that view of the matter, considering the averments made in the application, the same is allowed. The rejection of CA/2856/2016 under conditional order dated 12.01.2024 is set aside.

6. Subject to Applicant depositing costs of Rs. 10,000/- in this Court, within a period of 4 weeks from today, CA/2856/2016 shall be allowed in terms of prayer clause (a) and delay shall be condoned.

7. The Respondent is at liberty to withdraw the costs.

8. Interim application is disposed of in above terms.

(M.M. SATHAYE, J.)