

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

***CIVIL APPLICATION NO. 2734 OF 2014
IN
WRIT PETITION NO. 4324 OF 2014***

Mr.Sanyukt H. Tiwari

... Applicant

v/s

M/s.Travelmartindia.com Pvt. Ltd. & anr.

... Respondentss

Mr.Mayuresh Modgi for the applicant.

Mr.S.C. Naidu along with T.R. Yadav i/by C.R. Naidu & Co. for
Resp. No.2.

CORAM: N.M. JAMDAR, J.

DATED : 25TH AUGUST, 2015

PC.:

The civil application is taken out for restoration of the writ petition which is dismissed for default on 9 September 2014.

2 By order dated 23 June 2014 notice was issued to the Respondents and it was indicated that Court may consider disposing of the petition finally at the admission stage. Thereafter none appeared for the Petitioner on 23 June 2014. Again on 1 September 2014 and on 9 September 2014 even though the petition was shown on board for disposal, the Petitioner was absent

and the petition came to be dismissed for default. Thereafter, the present civil application was taken out and in this civil application again the Petitioner/applicant did not remain present on 9 January 2015 and 13 March 2015.

3 It appears that even after dismissal of the petition for non-prosecution, the Petitioner has not attended the dates. The reason given in the application is that the advocate was unaware of the dates, which cannot be accepted. However, instead of dismissing the civil application, in my opinion, equity can be balanced by allowing the civil application subject to the applicant paying the cost of Rs.5,000/- to the Respondents within a period of two weeks from today. However, by order dated 23 June 2014, indulgence was shown to the Petitioner indicating that petition can be taken up finally at the admission stage on priority basis, in spite of the fact that there are much older petitions pending for hearing. In my opinion, in view of the conduct of the Petitioner, this priority can no longer be extended to the Petitioner as a right and it will be purely in the discretion of the Court.

4 List the petition on board for admission on 21 September 2015.

(*N. M. JAMDAR, J.*)