

dik

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 169 OF 2015
IN
SUIT (L) NO. 2795 OF 2010**

Vijay T. Thakkar & Anr.	...Plaintiffs
VS	
Dilip N. Nanavati & Ors.	...Defendants

.....
Mr Simil Purohit i/b Nirmal Devnani for the Plaintiffs.
Ms Dhanashri Boga i/b Jayakar & Partners for Defendant Nos.1 to 5.
Mr Rishikesh Soni a/w Ms Manasi Vyas i/b DSK Legal for Defendant No.6.
.....

CORAM : S.C. GUPTE, J.

MARCH 2, 2015

P.C. :

This Motion is taken out by the original Plaintiffs for restoration of the suit, which was dismissed on 9 February 2011, for want of removal of the office objections under Rule 986 of the High Court, Original Side, Rules. There is a delay in taking out the present Motion. The suit was dismissed on 9 February 2011. The Plaintiffs claim to have come to know of the disposal of the suit, when a copy of the Criminal Writ Petition, filed by the Defendants and which arose from the criminal complaint filed by the Plaintiffs against the Defendants, was served by the Bandra Police Station on the Plaintiffs in or around August 2014 and, thereafter, the Advocates of the Plaintiffs checked the status of the suit on the website. It is submitted that thereafter for some time the papers of the proceedings could not be traced in this Court. It is submitted that the papers were finally traced in January 2015, whereafter the Plaintiffs instructed their Advocates to file the present Motion. The plea is of inadvertence on the part of the Advocates to remove the office objections. For the reasons stated in the affidavit in support of the Notice of Motion, the delay is condoned and the Notice of Motion is made absolute in terms of prayer clause (a), but subject to payment

of costs of Rs.50,000/- by the Plaintiffs to the Defendant Nos.1 to 4, in one set. Payment of the costs is the condition precedent.

2 It is submitted by the learned Counsel for Defendant Nos. 1 to 5 that original Defendant No.5 has expired on 1 November 2013 and that his legal representatives, namely, Defendant Nos.2,3 and 4, are already on record. Defendant No.5 is, accordingly, ordered to be deleted from the cause title. Defendant Nos.2,3 and 4 shall represent the estate of Defendant No.5 in the suit. The amendment to be carried out within a period of two weeks from today.

3 The statement made by the learned Counsel for Defendant Nos. 1 to 5, on 11 October 2010, shall continue for a period of two weeks from today. The Plaintiffs shall be at liberty to adopt appropriate proceedings for ad-interim reliefs in the matter.

(S.C.GUPTE J.)