

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1000 OF 2015
IN
SUMMARY SUIT NO. 581 OF 2014**

Sai Service Agency (Bombay) Pvt. Ltd. .. Applicant

In the matter between :

Sai Service Agency (Bombay) Pvt. Ltd. .. Plaintiff

Vs.

Ajit Waman Satam & Ors. .. Defendants

Mr.Santosh Jagtap for applicant/plaintiff.

Mr.Sachin Ramrao Pawar for defendant no.1.

CORAM : K.R.SHRIRAM, J.

DATE : 21ST JULY, 2015

P.C.

1 The notice of motion is taken out by the plaintiff to restore the suit that came to be dismissed on 15.06.2015.

2 The matter was first listed on 8.06.2015 and though it was called out twice, once in the morning session and once in the post-lunch session, nobody appeared for the plaintiff. Hence, the matter was stood over to 15.06.2015 for dismissal. Despite that, nobody remained present for the plaintiff and therefore the summons for judgment came to be dismissed.

3 The notice of motion is taken out to recall that order of dismissal. In

the affidavit in support, it is stated that the plaintiff's Director was busy. As regards the advocate, it is stated that he was out of town and therefore, did not notice the matter on board. It is also stated that the advocate received an SMS on 8.06.2015 about the matter from the High Court but the message was incomplete. There is no explanation whatsoever as to why the advocate did not check the website of the Court or come to the Court the following day or before 15.06.2015 to check the status of the matter. The same thing happened on 15.06.2015 and according to the advocate, SMS that he received from the registry was again incomplete.

4 The SMS that is being sent from the High Court to the Advocates on record is a proactive initiative taken by the Bombay High Court in addition to publishing the cause-list on the website so that the advocates on record are informed in advance about the matter being listed. This facility is provided by the High Court for the benefit and convenience of the parties and advocates on record. Despite receiving a SMS from the High Court on 15.06.2015, the advocate on record for the plaintiff chose not to remain present in Court. As per the affidavit, the advocate was busy in some other matter at Dindoshi Court. The Vakalatnama has been filed by two advocates; one Mr.Sharad A. Ghadge and Mr.Sanjosh Jagtap but in the affidavit in support, there is mention only about Mr.Sharad Ghadge's inability to attend.

The affidavit is totally silent as to why the other advocate who has filed the joint Vakalatnama did not remain present in Court. The counsel for the defendants also contended that in fact they have also received an email from the High Court NIC that the matter is listed.

5 Though I feel it is a fit case not to entertain the notice of motion and reject the same, in view of the facts and circumstances of the case, I am inclined to give another chance to the plaintiff. The plaintiff, of course, will have to be put to terms. The notice of motion is, therefore, allowed in terms of prayer clause (a). The plaintiff to pay (i) a sum of Rs.5,000/- to the Bombay High Court Original Side Law Library and (ii) a sum of Rs.10,000/- as costs to the advocate for the defendants by way of cheque drawn in favour of advocate on record for the defendants within one week from today.

5 The notice of motion accordingly stands disposed.

6 The summons for judgment No.100 of 2014 is restored to file. The summons for judgment to be listed for hearing on 28.07.2015.

(K.R. SHRIRAM, J.)