

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****COMPANY APPLICATION NO. 72 OF 2015****IN****CROSS APPEAL NO. 1 OF 2015****IN****COMPANY APPEAL NO. 81 OF 2014****IN****CLB COMPANY PETITION NO. 33 OF 2010****WITH****COMPANY APPLICATION NO. 23 OF 2015**

Shri Kalpesh Kantilal Dedhia & Ors. ...Applicants / Appellants

vs.

Altius Developers Pvt.Ltd. & Ors. ...Respondents

WITH**COMPANY APPEAL NO. 80 OF 2014****IN****CLB COMPANY PETITION NO. 33 OF 2010****WITH****COMPANY APPLICATION NO. 46 OF 2013**

Stuti Realty Pvt.Ltd. & Ors. ...Appellants

vs.

Shri Kalpesh Kantilal Dedhia & Ors. ...Respondents

WITH**COMPANY APPEAL NO. 81 OF 2014****IN****CLB COMPANY PETITION NO. 33 OF 2010**

Lily Realty Pvt.Ltd. ...Appellant

vs.

Shri Kalpesh Kantilal Dedhia & Ors. ...Respondents

WITH**COMPANY APPEAL NO. 82 OF 2014****IN**

CLB COMPANY PETITION NO. 32 OF 2010

Shri Kalpesh Kantilal Dedhia & Ors. ...Appellants
vs.
Altius Developers Pvt.Ltd.& Ors. ...Respondents

WITH**COMPANY APPEAL NO. 37 OF 2015
IN
CLB COMPANY PETITION NO. 31 OF 2010**

Shri Kalpesh Kantilal Dedhia & Ors. ...Appellants
vs.
Altius Developers Pvt.Ltd.& Ors. ...Respondents

Mr.Pranesh Gada i/b. M/s.Shah and Furia Associates for Applicants.
Mr.K. Chandarana i/b. M. Humranwala for Respondent Nos.4 to 9 and 14.
Mr.M.G. Gawde for Respondent No.15.

CORAM : S.C. GUPTE, J.**27 AUGUST 2015****P.C. :**

The Applicants seek recall and setting aside of an order dated 8 May 2015 dismissing the appeal for want of prosecution.

2 The application is opposed by learned Counsel for Respondent Nos.4 to 9 and 14 and also by Counsel for Respondent No.15.

3 The Applicants have explained the circumstances in which their appeal, which is in the nature of a cross appeal, came to be dismissed in their affidavit in support of the company application. It is submitted that this appeal was wrongly listed on board on 8 May, 2015, though it was already adjourned to 22 June 2015 along with a companion appeal, namely, Company Appeal No.80 of 2014. Since the Applicants' appeal wrongly appeared on board and that too unconnected with Company Appeal No.80 of 2014 and was not noticed by the

Advocates, none appeared for the Appellants and the appeal came to be dismissed. Sufficient cause has been made out for non-appearance on the part of the Appellants on 8 May 2015.

4 The dismissal order dated 8 May 2015 is, accordingly, set aside and the appeal is restored on file, to be heard along with Company Appeal No.80 of 2014. Place both the appeals for admission together with Company Appeal No.81 of 2014 on 10 September 2015.

(S.C. Gupte, J.)