

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.3251 OF 2009**

IN

SUIT NO.676 OF 2001

M/s. Radha Krishna Fabrics

....Plaintiffs

V/s.

M/s. Vigosha Exports

....Defendants

Mr. S.M.Sharma i/by M.P.Vashi & Associates, advocate for the plaintiffs.

**CORAM : K.R.SHRIRAM,J
DATE : 20th October, 2015**

P.C.:-

1 This notice of motion is taken out for setting aside order dated 23.4.2009 passed by the Prothonotary & Senior Master, High Court, Bombay dismissing the above suit for default and to restore the suit to file. The order impugned reads as under:

"None present.

P.C.: This suit appeared on number of occasions i.e. on 28th February, 2008, 9th June, 2008, 7th August, 2008 and 18th November, 2008. In spite of giving directions for filing Affidavit of service, it is not filed till date. Suit dismissed for non prosecution."

2 From the records and proceedings, it appears that the suit was dismissed on 16.1.2008 by Additional Registrar Original

Side for non filing of affidavit proving service of writ of summons upon defendants as well as for default. Against that order, plaintiffs had taken out Notice of Motion bearing no.815 of 2009 praying for setting aside of that order of dismissal. This notice of motion came to be heard on 24.7.2009 and the notice of motion came to be dismissed. There is no mention of this order in the present notice of motion and there is no statement as to when the suit was restored that came to be dismissed on 23.4.2009.

3 In the circumstances, this notice of motion also stands dismissed.

(K.R.SHRIRAM,J)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment/Order.**