

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

**NOTICE OF MOTION NO. 1494 OF 2014
IN
SUMMARY SUIT NO. 2178 OF 2003**

Mr.Nandlal N. Dave

.. Applicant/Orig.Plfff.

In the matter between :

Mr.Nandlal N. Dave

.. Plaintiff

Vs.

Mrs.V.N.Nandu

.. Defendant

Mr.P.S.Kulkarni i/b B.A. Vora for plaintiff/applicant.

None for defendant.

CORAM : K.R.SHRIRAM, J.

DATE : 16TH JUNE, 2015

P.C.

1 The notice of motion is taken out by the plaintiff for recalling the order of dismissal passed by this Court on 12.10.2009 dismissing the suit for want of prosecution as the plaintiff and his advocate were not present.

2 In the affidavit in support, the plaintiff-applicant has explained that he is 84 years of age and he was dependent completely upon the advocate but his advocate never informed him about the status of the matter or that the suit was dismissed. The plaintiff has stated that he came to know about the dismissal of the suit only on or about 10.07.2014 and has taken out this notice of motion on 5.08.2014.

3 Having considered the submissions made by the counsel for the
plaintiff and the affidavit in support of the notice of motion, in my view, it is
a fit case to recall the order of dismissal and restore the suit to file.

4 In the circumstances, the order passed by this Court on 12.10.2009 is
recalled and the suit is restored to file.

5 The notice of motion accordingly disposed of.

6 The claim in the suit is only Rs.76,950/-. Therefore, the registry to
transfer the suit to the City Civil Court, Bombay.

(K.R. SHRIRAM, J.)