

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

**NOTICE OF MOTION NO. 1582 OF 2014
IN
SUIT NO. 1939 OF 2010**

Hanifa Ali Mohd. Nanjiani .. Plaintiff
Vs.
Albert Sequeira & Ors. .. Defendants

Ms. Bhgyalaxmi Racha a/w. Mr. J.P. Singh for plaintiff.

Mr. P.V. Bhagat for defendant no.1.

Mr. Dharmesh Pandya i/b Ashwin Pandya & Associates for defendant no.3.

**CORAM : K.R.SHRIRAM, J.
DATED : 17TH OCTOBER, 2015**

P.C.

1 This notice of motion is for restoration of the suit that came to be dismissed on 17.11.2014. The reason for absence on 14.11.2014 and 17.11.2014 is that the earlier advocate due to oversight did not attend the matter. The counsel appearing for the defendants states that this explanation is not enough and the entire blame had been sifted to the earlier advocate.

2 It is true that the reason given in the affidavit is that the earlier advocate did not remain present. Almost all the times parties rely on the advocates to keep track of the matter and to remain present and take care of their interest in the Court. In this case, the earlier advocate did not remain

present. The plaintiff soon thereafter came to know on 24.11.2014, when the plaintiff checked the website that the suit has been dismissed on 24.11.2014. From the records and proceedings, it appears that the matter was last on board sometime in February 2014. Therefore, in my view, it is fit case in the interest of justice to recall the order dated 17.11.2014 and restore the suit to file. The order of 17.11.2014 is hereby recalled and the suit is restored to file. Costs to be costs in the suit.

3 Stand over to 10.11.2015 for directions.

(K.R. SHRIRAM, J.)