

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

**NOTICE OF MOTION NO. 1581 OF 2014
IN
SUIT NO. 3494 OF 2004**

Shri Satish Mirchand Khanna

.. Applicant/(Org.Plttf.)

IN THE MATTER BETWEEN :

Shri Satish Mirchand Khanna

.. Plaintiff

Vs.

Shri Mohan Khubchand Thakur & Ors.

.. Defendants

Mr.Kamlesh Tiwari for plaintiff.

**CORAM : K.R.SHRIRAM, J.
DATED : 9TH OCTOBER, 2015**

P.C.

1 This notice of motion is taken out on behalf of the plaintiff to restore the suit which came to be dismissed under Rule 87 of the High Court (O.S.) Rules on 13.01.2009.

2 The plaintiff had taken out a notice of motion earlier bearing notice of motion No.637 of 2012, which came to be dismissed pursuant to an order dated 1.04.2014. In the affidavit in support, the plaintiff has stated that the suit has been settled between the parties and this restoration application is being filed only for the purpose of applying for refund of court fees. According to the counsel for the plaintiff, if the suit is not restored, the

plaintiff will not be able to obtain refund of court fees. The counsel prays that in the interest of justice, as the matter is already settled out of Court, the Court should show some leniency, condone the delay and restore the suit.

3 In view of what is stated in the affidavit in support and the submissions made by the counsel for the plaintiff, the order dated 13.01.2009 is set aside and the suit is restored to file. The notice of motion accordingly disposed of.

4 The counsel for the plaintiff seeks leave to withdraw the suit. The suit allowed to be withdrawn.

Refund of Court fees in accordance with Rules.

(K.R. SHRIRAM, J.)