

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 230 OF 2016
IN
WRIT PETITION NO. 4084 OF 2013**

Mr. Ananta Bhau Koshimbe ... Applicant/Petitioner.

V/s.

M/s. Bhagirathi Enterprises & Ors. ... Respondents.

Mr. Keshav Borhade, Advocate for the Applicant/ Petitioner.

Mr. V. P. Malvankar, AGP for Respondent Nos. 2,3 & 6.

CORAM : A.S.OKA & C.V.BHADANG,JJ.

DATE : 03rd FEBRUARY, 2016.

P.C. :

1 This is an application made by the Applicant in Civil Application No.1039 of 2015. The order passed on 12th August, 2015 in the Civil Application No.1039 of 2015 reads thus :

“1. The learned counsel appearing for the applicant tendered an affidavit of the applicant who is stated to be personally present in the Court. The affidavit is taken on record and marked 'X' for identification.

2 In view of what is stated in the affidavit, the applicant is not pressing this application.

Accordingly, the application is dismissed as not pressed.”

Now the present Civil Application is filed for restoration of the Civil Application No.1039 of 2015.

2 We have perused the averments made in the present Civil Application. Only material averments are made in paragraphs 8 and 9 which read thus :

“8. That, on the date of hearing, the Advocate advised the Applicant that, he shall not press the Civil Application for restoration as the Contempt Application is filed against him and he will lose his government job, if the contempt petition is decided against him. The Applicant was in tremendous pressure and filed affidavit before this Hon'ble Court as per advise of the Advocate.

9 On the basis of affidavit of the Applicant, the Hon'ble Court passed order dated 12.08.2015 and dismissed Application of the Applicant as withdrawn. Hereto annexed copy of order dated 12.08.2015 as Exhibit “A”.”

There is no reference made by the Applicant to the contents of the solemn affidavit filed by him which is referred in the order dated 12th August, 2015. In fact on the basis of the solemn statement made in the affidavit filed by the Applicant that Civil Application was dismissed as not pressed. We having perused

the said affidavit of the Applicant, we find that the affidavit has been affirmed before a Section Officer of this Court. It is the affidavit marked as "X" which is referred in the order dated 12th August, 2015. In the said affidavit, there is a categorical statement on oath that the Applicant is not willing to proceed with the Civil Application for restoration of the writ petition. Even, in the present Civil Application, the contents of the said affidavit have not been disputed. Therefore, filing of the present Civil Application is completely an abuse of law. It is very easy for a litigant to come before the Court and say that earlier he acted in terms of the legal advice and that now he has changed his mind.

3 As the present application is nothing but an abuse of process of law, the same is dismissed. We direct the Applicant to pay costs, quantified at Rs.15,000/- to the State Government within a period of four weeks from today.

(C.V. BHADANG,J.)

(A.S. OKA, J.)

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