

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL APPLICATION NO.2565 OF 2016  
IN  
FIRST APPEAL NO.1247 OF 2015**

**Vikram Kishor Thakkar**

**..Applicant**

**Vs.**

**Narinder Birsingh Puransingh Sahney & Anr.**

**..Respondents**

**Mr. R. B. Jadhav for the Applicant**

**Mr. D. S. Joshi for the Respondent No.1**

**CORAM : R. M. SAVANT, J.**

**DATE : 10<sup>th</sup> JUNE, 2016**

**P.C.**

1           The above Civil Application has been filed for restoration of the above First Appeal which has been dismissed for non prosecution on account of the non appearance of the Advocate on 18-3-2016. In view of the fact that Civil Application for withdrawal of the amount deposited by the Applicant was filed by the Respondent No.1 that the Appeal was listed along with the said Civil Application. Since no appearance was put up on behalf of the original Appellant i.e. the Applicant in the said Civil Application filed for withdrawal, the Appeal itself came to be dismissed for non prosecution.

2           In my view case for restoration of the Appeal is made out. The Civil Application is accordingly allowed, resultantly the First Appeal is restored

to file. The Learned Counsel for the Respondent No.1 Mr. Joshi does not dispute the position that the First Appeal was admitted and that what was to be heard on the day in question was only the Civil Application, however the First Appeal was dismissed on the day the Civil Application was heard. Interim stay which was operating in the First Appeal which was passed on 28-10-2015 would continue to operate as the amount directed by the said order has already been deposited by the Applicant / Appellant. The Civil Application is accordingly disposed of.

**[R.M.SAVANT, J]**