

dik

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

WRIT PETITION NO. 8144 OF 2013

Vishakhapatnam Port Trust

...Petitioner

vs

M/s Space Age Industrial Projects Ltd. & Anr. ...Respondents

.....

Mr Charles De'souza a/w Manaswi Agrawal i/b Verus for the
Petitioner

.....

**CORAM : N. M. JAMDAR, J.
26 OCTOBER, 2016**

P.C. :

Heard learned counsel for the Petitioner. The darkhast proceedings have been dismissed for non-prosecution. The learned Judge has observed that the Darkhast proceeding is pending since 2001 and no steps have been taken by the Petitioner / Decree Holder. The Darkhast proceedings have been dismissed for non-prosecution and not on merits. Learned counsel for the Petitioner has sought to urge with reference to the Roznama and various other documents that the Petitioner was diligent. The Petitioner ought to have first approached the learned Civil Judge for restoration by tendering apology, if necessary. Instead of doing so, the Petitioner has directly invoked the power of superintendence of this Court. It will be proper that the Petitioner first approaches the learned Civil Judge and places on record as to why the decree which is of the year 2001 remained to

be executed. It is open to the Petitioner to point out that the Petitioner was diligent in pursuing the proceedings. With this liberty the Writ Petition is disposed of.

(*N.M.JAMDAR J.*)