

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3301 OF 2015

IN

WRIT PETITION NO.3138 OF 2000

Shri. Nasir Khan Bashir Khan

(Since deceased through legal heirs)

1a. Mrs. Shaheda Nasir Khan and others

.. Applicants

Versus

Sherbano wife of Abdul Ali Bhai Khemji

and others

.. Respondents

Ms. Pratibha Shelke i/by Mr. P. J. Thorat, for the Applicants.

**Mr. Abhishek Pungaliya i/by Mr. Mohan Pungaliya, for the Respondent
Nos.1 to 3.**

CORAM : R.M. SAVANT, J.

DATE : 22nd FEBRUARY 2016

PC.

1. The above Civil Application has been filed for restoration of the above Writ Petition which has stood dismissed for non-prosecution on account of the non-appearance of the Advocate on 17.06.2015. The reasons for the non-appearance of the Advocate are mentioned in paragraph 4 of the Civil Application. The Learned Counsel Mr. Abhishek Pungaliya appearing on behalf of the Respondent Nos.1 to 3 states that it is the third occasion when the Writ Petition has been dismissed for non-

prosecution and an application for restoration is filed. Since the Petition has been dismissed for non-prosecution, in my view to give a fair opportunity to the Petitioner a final indulgence can be shown to the Petitioner to prosecute the Writ Petition on merits. Hence, the Civil Application is allowed. Resultantly, the Writ Petition is restored to file. However, the same would be on the pains of costs of Rs.5000/- to be paid by the Petitioner to the Respondent Nos.1 to 3 within two weeks from date. The Civil Application is accordingly disposed of. On restoration, the Petition to be added to the final hearing board, to be shown at the appropriate place as per the chronological order.

[R.M. SAVANT, J]