

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

NOTICE OF MOTION NO. 491 OF 2013

IN

SUIT NO. 3184 OF 2008

Soad Altaf Khan ... Applicant / Plaintiff

Versus

Anamika Areal Estates Pvt. Ltd. ... Defendant

Mr. Ashok Mishra for the Applicant / Plaintiff.
None for the Defendant.

CORAM : S.J. KATHAWALLA, J.
DATED : 12TH JANUARY, 2016

P.C.

1. By the above Notice of Motion, the Plaintiff seeks restoration of the Suit, which was dismissed for want of prosecution by an order dated 4th April, 2012. On that day, none appeared for the Plaintiff or the Defendant. The Notice of Motion sought to be served on the Defendant is returned with the remark 'left'.
2. Perused the Notice of Motion and the Affidavit in support thereto. For the reasons set out in the Affidavit in support of the Notice of Motion, the Notice of Motion is allowed in terms of prayer Clauses (a) and (b), which are reproduced hereunder :

“(a) That this Hon'ble Court be pleased to condone the delay of 256 days in filing of the Notice of Motion.

(b) That this Hon'ble Court be pleased to restore the Suit along with the Notice of Motion No. 4078 of 2008 thereby setting aside order dated 4th April, 2012”.

3. However, the Plaintiff is directed to serve the Writ Summons as well as the copy of this order on the Defendant by substituted service i.e. through publication in Free Press Journal (in English) and Navshakti (in Marathi) made returnable on 25th February, 2016.
4. Since the claim in the Suit below Rupees One Crore, the Registry is directed to forthwith transfer the record and proceedings of the above Suit to the City Civil Court, Mumbai.
5. The City Civil Court, Mumbai shall proceed with the trial in the Suit only after satisfying itself that the present order has been complied with by the Plaintiff.
6. The Notice of Motion is accordingly disposed of.

(S.J.KATHAWALLA, J.)