

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

NOTICE OF MOTION NO. 936 OF 2016  
IN  
ARBITRATION PETITION (L) NO. 729 OF 2014

Moxie Media Pvt. Ltd & anr.

.....Applicants

**IN THE MATTER BETWEEN :-**

Moxie Media Pvt. Ltd & anr.

.....Petitioners

V/s.

Sandeep Mahendra Bhammer

.....Respondent

\* \* \* \* \*

Mr. Suresh H. Sharma, Advocate for the applicants, petitioners.

None for the respondent.

**CORAM :- SMT. R.P. SONDURBALDOTA, J.**

**DATED :- 8TH SEPTEMBER, 2016.**

**P.C. :-**

1). This Notice of Motion is taken out for restoration of the petition after condoning the delay of 512 days in applying for restoration. The above arbitration petition was rejected on 17<sup>th</sup> September, 2014 under Rule 986 of the Original Side Rules on account of non-removal of office objections. The petitioners have

filed additional affidavit to support the Notice of Motion as the first Affidavit filed did not state some of the details of the claims made by the petitioners. The petitioners claim that after the arbitration petition was filed in the year 2013, they had essentially relied upon their Advocate M/s. Fortitude Law Associates, to take care of the proceedings including removal of office objections. The Prothonotary & Senior Master had given sufficient opportunity by adjourning the petition on three dates before rejecting the petition. The affidavits-in-support of the Notice of Motion are filed by one, Rajkumar Singh as the authorised Director of petitioner no.1, Company. He claims that on 18<sup>th</sup> February, 2016 while he was having discussion with his Advocate about another arbitration petition being Arbitration Petition No. 502 of 2015 filed in this Court, the question as regards the current status of the present petition came up. He made enquiries with M/s. Fortitude Law Associates of Mumbai who failed to give any satisfactory answer. Thereupon, he made search on the High Court Website and learnt about rejection of the petition. Thereafter, he engaged the present Advocate on 10<sup>th</sup> February, 2016 to file the application for restoration of the petition. The Notice of Motion was taken out on 11<sup>th</sup> March, 2016. The petitioners seek to explain the delay from 10<sup>th</sup> February, 2016 to 11<sup>th</sup> March, 2016 by claiming that the deponent of the affidavit fell sick and no other Director was available for signing the affidavit-in-support of the Notice of Motion. There is no explanation for the period 17<sup>th</sup> September, 2014 to 10<sup>th</sup> February, 2016.

2). Mr. Sharma, the learned Advocate appearing for the petitioners submits that, the petitioners had fully relied upon their Advocate to do the needful and the negligence of the Advocate has resulted in rejection of the petition. But at the same time, it is strange that, the petitioners did not even so much as made enquiries about the petition. In my opinion, the explanation set out in the two affidavits is a far fetched explanation. However, since the petition is disposed off at the threshold, an opportunity may be given to the petitioners to have their claim considered on merits but by imposing costs upon them which costs are to be paid to the Maharashtra Legal Services Authority. Hence, the Notice of Motion is allowed in terms of prayer clauses (a) and (b) on condition that the petitioners pay costs quantified at Rs.25,000/- by depositing the same with the Maharashtra Legal Services Authority within a period of 2 weeks from today. If the costs are not paid within the time granted, the Notice of Motion will stand dismissed without any further reference to the Court. In the event of payment of costs, within the time granted, the petitioners shall remove the office objections within a period of 4 weeks from the date of payment of costs.

**(SMT. R.P. SONDURBALDOTA, J)**