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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1263 OF 2016
IN
SUIT NO. 643 OF 2015**

Goldmines Telefilms Pvt. Ltd. ...Plaintiff

Versus

M/s. Jayshree Pravin Enterprises & 2 Ors. ...Defendants

Mr. Vinod Talsania, *i/b M/s. Thakore Jarimala Associates, for the
Plaintiff.*

Ms. Mona Malhotra, *for Defendants Nos. 1 and 2.*

CORAM: G.S. PATEL, J

DATED: 2nd May 2016

PC:-

1. This is the Plaintiff's Notice of Motion to set aside the order dated 13th April 2016 passed by the Prothonotary & Senior Master. That order dismissed the Suit against the 3rd Defendant for non-service of the Writ of Summons. The explanation in the Affidavit in Support of this Chamber Summons is that since the case status showed the appearance of the 3rd Defendant, the Plaintiff incorrectly assumed that the service of writ of summons had been waived.

2. In my view, this is a mistake that anyone might have made. When an Advocate enters an appearance, we ordinarily proceed on the footing that formal service of the Writ of Summons has been waived. There is no reason to deny the relief sought.

3. The Notice of Motion is made absolute in terms of prayer clauses (a) and (b). Registry is directed to issue a fresh writ of summons for service on the 3rd Defendant. That Writ of Summons is to be issued on a priority basis. The Plaintiff undertakes to serve that Writ of Wummons on the 3rd Defendant on or before 1st July 2016.

4. In view of the principle enunciated by the Supreme Court in *Vareed Jacob vs Sosamma Geeverghese & Ors.*¹, the previous ad-interim or interim order against the 3rd Defendant also stands revived.

5. It is clarified that this time will not be extended under any circumstances. If service is not completed by that date, the order dated 13th April 2016 will revive and the Suit will stand dismissed as against the 3rd Defendant without further reference to the Court.

6. The Notice of Motion is disposed of in these terms, with no order as to costs. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)

1 2004 (6) SCC 378