

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 623 OF 2014
IN
ARBITRATION PETITION NO. 1075 OF 2012

Sunil Narhari ParabApplicant

IN THE MATTER BETWEEN :-

Sunil Narhari ParabPetitioner

V/s.

New India Co-op. Bank Ltd.
and 2 Ors.Respondents

* * * * *

Mr. Manish Dubey i/by. Mr. Akhilesh Singh, Advocate for the petitioner.

Mr. C.N. Mehta i/by. MMK Law Associates, Advocate for respondent no.1.

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

DATED :- 18TH AUGUST, 2016.

P.C. :-

1). This Notice of Motion is for restoration of the petition which was dismissed for default on 26th April, 2013. The petitioner also seeks condonation of delay in taking out the present Notice of Motion. The Notice of Motion is served upon respondent no.1, the

contesting respondent. It is yet to be served upon respondents no.2 and 3 who were the respondents to the original arbitration proceedings. Since they cannot be the contesting respondents, the Notice of Motion need not be served upon them. Heard the Advocates for the petitioner and respondent no.1.

2). Mr.Dubey, the learned Advocate appearing for the petitioner submits that, the matter could not be attended to on 26th April, 2013 because the Advocate for the petitioner had gone to the native place for the wedding of his daughter. He claims to have submitted leave note in the office for the period 25th April, 2013 to 10th May, 2013 and that the leave note was displayed on the notice board. Mr. Mehta, the learned Advocate appearing for respondent no.1 points out that, there is no practice on the Original Side establishment of this Court of filing Leave Notes. Therefore, no cognizance could have been taken of the Leave Note, though filed. Even if that is so, considering the grounds stated in the affidavit-in-support of the Notice of Motion for the absence in the Court, I am inclined to allow the Notice of Motion in terms of prayer clauses (a) and (b). Office to place the arbitration petition on board for admission on 1st September, 2016.

(SMT. R.P. SONDURBALDOTA, J)