

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

APPEAL (L) NO.221 OF 2016
 IN
 NOTICE OF MOTION (L) NO.965 OF 2016
 IN
 SUIT NO.397 OF 2016

...

Mohd.Phool Shaikh	...Appellant
v/s.	
Bhavik Dattani & ors.	...Respondents

...

Mr.Ram Upadhyay i/b Law Competere Consultus for the Appellant.
 None for the Respondents.

...

CORAM : A.S.OKA &
A.A. SAYED, JJ.
DATED : 9 JUNE 2016

P.C.:

(Not on Board. Taken on Board)

Heard learned Counsel for the Appellant. The Appellant is original Defendant. The suit filed by the Respondents-original Plaintiffs was placed before the Prothonotary & Senior Master on 1 December 2015. Conditional order was passed by the Prothonotary & Senior Master directing that if office objections were not removed by 29 December 2015, the suit will stand dismissed under Rule 986 of the Bombay High Court (O.S.) Rules. As the Advocate for the Plaintiffs did not remove the office objections, the suit stood dismissed. By the impugned order, the learned

single Judge has restored the suit by extending time to remove the office objections till 4 May 2016 with a rider that the time will not be extended any further. Moreover, the impugned order has been passed on the basis of statement of the learned Advocate representing the original Plaintiffs to personally pay costs quantified at Rs.15,000/- to the present Applicant and an additional amount of Rs.15,000/- to the Maharashtra State Legal Services Authority.

2. The submission of the learned Counsel for the Appellant is that in the affidavit filed by the Respondent in support of the Notice of Motion for restoration of the suit false statements have been made. He invited our attention to paragraphs 6 and 7 of the Affidavit-in-support. He also relies upon the decision of the Apex Court in the case of **Basawaraj & ors. v/s. The Spl.Land Acquisition Officer**¹.

3. We have considered the submissions. The suit filed by the Respondents was dismissed on account of failure of their Advocate to remove the office objections within the time specified in order dated 1 December 2015 passed by the Prothonotary & Senior Master. Thus, the suit was dismissed on technical ground of failure of the Advocate to remove the office objections. Learned single Judge while passing the impugned order

¹ AIR 2014 SC 746

has directed payment of costs as stated above. There is no reason to interfere with the discretionary order passed by the learned single Judge in this Letters Patent Appeal. We find that there is no merit in the Appeal and accordingly the same is dismissed.

(A.A. SAYED, J.)

(A.S.OKA, J.)