**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.2354 OF 2016**

**IN**

**APPEAL (L) NO.679 OF 2015**

M/s. BMA Commodities Private Ltd. ...Applicant

In the matter between
BMA Commodities Pvt. Ltd. ...Appellant

Versus

Mrs. Kaberi Mondal ...Respondents

...

Mr. Siddharth Murarka i/b. Law Chamber of Siddharth Murarka for Applicant.
Ms Ritcha Sahay i/b. Mr. Ashwin Shankar for the Respondent.

**CORAM : A.S. OKA &**
**SMT. ANUJA PRABHUDESSAI, JJ.**

**DATED: 15 NOVEMBER, 2016.**

**P.C.:-**

This is a notice of motion taken out by the Appellant in the appeal for restoration of the appeal which was dismissed for non prosecution by the Prothonotary and Senior Master in exercise of powers under the Rule 986 of the Original Side Rules.

2. We have perused the affidavit in support of the notice of motion and in particular paragraphs 3 and 4 thereof. There is sufficient explanation given for non removal of office objections within the time granted by the

Prothonotary and Senior Master and for the delay in filing the notice of motion.

3. In the reply filed by the Respondent it is contended that the notice of motion has been belatedly filed and chamber order taken out by the Applicant /Appellant has been disposed of. The learned counsel appearing for the Applicant /Appellant pointed out that chamber order was taken out by Advocate for the Appellant for discharge. Hence, in our view a case of restoration is made out. The notice of motion is made absolute in terms of prayer clauses (a) and (b) subject to the Applicant removing all office objections in the appeal within a period of one month from today. If the office objections are not removed within the stipulated time, the appeal will stand dismissed for non prosecution without further reference to the Court.

**(ANUJA PRABHUDESSAI, J.)** **(A.S. OKA, J.)**