

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

**NOTICE OF MOTION NO.2219 OF 2016
IN
SUIT NO.176 OF 1995**

M/s. Ujjain Properties Pvt. Ltd.

....Applicant/Plaintiff

V/s.

Bharat Himatlal Paleja and Ors.

....Defendants

Mr. Soli Cooper a/w. Ms. Armin Wandrewala and Ms. L.M. Jenkins
i/b. M/s. Thakordas and Madgavkar for the applicant/plaintiff.

Mr. R.A. Shah a/w. Mr. A.T. Suryavanshi i/b. M/s. Mansukhlal Hiralal
and Co. for the defendant nos.1 and 3.

CORAM : K.R.SHRIRAM,J

DATE : 26th October, 2016

P.C.:-

1 This notice of motion is taken out by the plaintiff for restoration of the suit that came to be dismissed on 10th June, 2015 for want of prosecution.

2 Have considered the affidavit in support of the notice of motion. Though Mr. Shah, counsel appearing for the defendant no.1 and 3 strongly opposes this notice of motion, in my view, for reasons mentioned in the affidavit in support, the suit requires to be restored with all interim reliefs granted earlier.

3 Mr. Cooper, counsel for the applicant assures the court that this will not happen again. This assurance is given in view of the fact that even earlier the suit was dismissed once for default and restored.

4 In view of what is stated in the affidavit in support and in view of this assurance given by Mr. Cooper, I am inclined to allow the notice of motion in terms of prayer clauses – (a) and (b). The notice of motion accordingly stands disposed.

5 The plaintiff to pay a sum of Rs.10,000/- as donation to Tata Memorial Hospital within two weeks from today.

6 The Court Receiver has taken out a Court Receiver's Report No.418 of 2016 which is not listed today. The same, however, with the consent of the parties is taken up for hearing.

7 In view of the above order passed in notice of motion, this Court Receiver's Report does not survive and is accordingly disposed of.

8 The plaintiff to pay a sum of Rs.3,000/- as cost to the Court Receiver. This amount has to be paid within two weeks from today.

(K.R.SHRIRAM,J)