

sg

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2014 OF 2015

IN

SUIT (L) NO.461 OF 2015

Anil Mehta ...Plaintiff

vs.

Bharti Airtel Limited (India) And Anr. ...Defendants

.....

Mr. Manoj Prajapati, i/b. Rushil Mehta, for the Plaintiff.

Mr. Ashutosh Thipse, a/w. Ms. Nayana Rane, i/b. D.H. Law Associates, for Defendant No.1.

Mr. Aditya Thakkar, a/w. Mr. Anindya Basarkod and Mr. C. Nageshwaran, for Defendant No.2.

....

CORAM : S.C. GUPTE, J.

DATED : JANUARY 4, 2016

P.C. :

. The Notice of Motion seeks recall and setting aside of an order of the Prothonotary and Senior Master of this Court dismissing the suit for want of removal of office objections under Rule 986 of the Bombay High Court Original Side Rules. The suit was dismissed by a self-operative order passed on 6 October 2015 giving two weeks' time to the Applicant Plaintiff to remove office objections. The affidavit in support of the Notice of Motion explains the circumstances in which the junior Advocate, who was entrusted the work of removal of office objections, left the firm on 6 October 2015 without attending to the matter. It is also claimed that the junior Advocate had missed attending the matter and also did not inform anyone from the

office about the same.

2. Learned Counsel for Defendant No.2 submits that there is a contradiction between the affidavit filed in support of the Notice of Motion and the affidavit seeking extension of time filed before the Prothonotary and Senior Master. There is no contradiction in the two affidavits. The first affidavit filed before the Prothonotary seeking extension of time claims that the junior was specifically instructed to attend the matter and due to his negligence, the matter was not attended by anyone from the Advocate's office. The present affidavit also takes the same position, namely, that the junior Advocate had failed to attend the Court and that too without informing anyone from the office about the same. In addition to this, it is also claimed that the junior advocate had left the firm.

3. Considering the affidavit in support of the Notice of Motion, which is filed by the Advocate of the Applicant, explaining the reasons for non-removal of office objection in time, the Notice of Motion is made absolute in terms of prayer clauses (a) and (b). The suit to appear for directions and Notice of Motion (L) No.1328 of 2015 for hearing on 2 February 2016. Office objections to be removed within two weeks from today. In the event the office objections are not so removed, the suit and the motion to stand dismissed without recourse to this Court.

(S.C. GUPTE, J.)