

IN THE HIGH COURT OF BOMBAY AT GOA.**Misc. Civil Application No. 431/2017
in
Writ Petition No.706/2016****ANDREW TELECOMMUNICATIONS PVT.LTD. APPLICANT****VERSUS****SHRI VIVEKANAND BONDRE RESPONDENT**

Shri P. Chawdikar, Advocate for the applicant.

**CORAM : NUTAN D.SARDESSAI, J.
DATED : 23rd MAY, 2017.****P.C.**

1. Shri P. Chawdikar, learned Advocate came to be heard on behalf of the applicant who submitted that pursuant to the order dated 12.5.2017 this Hon'ble Court had passed an order dismissing the petition for non-prosecution when it was placed for final hearing in vacation. The Advocate for the applicant on account of inadvertence failed to take note of the said notice placing the matter on the vacation board. He was under the impression that there was vacation for the High Court from 8.5.2017 till 5.6.2017 and as such proceeded to his native place at Chawdi, Pale on 7.5.2017 on account of some religious ceremony and domestic work and therefore could not remain present before this Hon'ble Court on 12.5.2017. It is only during the course of the perusal of an Email received from the High Court site that he learnt of the order

disposing off the petition for default on account of non-prosecution. The application was accordingly moved with promptitude to seek the restoration of the petition to file. In the circumstances, therefore it was just, fit and proper to set aside the order dismissing the petition. The applicant otherwise had a good case to succeed on merits and hence, the order of this Court was required to be set aside.

2. i have heard Shri Chawdikar, learned Advocate for the applicant who had otherwise asserted the said facts on oath by his independent affidavit filed to that effect reiterating the contents of the application. It is obvious from the said affidavit accompanying the application that the lapse occurred on account of a bonafide reason and circumstances beyond the control of the learned Advocate for the applicant. In the circumstances, therefore, and as sufficient cause has been shown and the application maintained within time, the order dated 12.5.2017 is set aside and the petition is restored to file.

NUTAN D.SARDESSAI, J.

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