

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.397 OF 2017
IN
WRIT PETITION NO.681 OF 2002

Office Notes, Office Memorandum - Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Vinod Mahadik for the applicant

Ms.Vidula S. Patil for the respondent

CORAM : K. K. TATED, J.
DATE : FEBRUARY 23, 2017

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by petitioner for for restoration of Writ Petition No.681 of 2002 which was dismissed for default by order dated 5.1.2017 as no one appeared on behalf of petitioner when the matter was called out.
- 3 The learned counsel for the applicant submits that on 5.1.2017 when the matter was called out for hearing, at that time concerned advocate was held up in other mater in High Curt itself and therefore, no one appeared on behalf of petitioner. He submits that because of mistake on the part of advocate, litigant should not suffer. He

submits that they have good chance of success in the present matter. He submits that if Civil Application is not allowed, irreparable loss will be caused to them.

4 On the other hand the learned counsel for the respondent vehemently opposed the present Civil Application. She submits that applicant has not shown sufficient cause for recalling the order dated 5.1.2017 and to restore the Writ Petition.

5 I have heard both the sides at length. It is to be noted that applicant specifically stated in paragraph 3 of the Civil Application that when the matter was called out on 5.1.2017 concerned advocate was held up in other matter. It is to be noted that because of mistake on the part of advocate, litigant should not suffer.

6 Considering these facts, I am satisfied that applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

- a) Order dated 5.1.2017 passed by this court is recalled.
- b) Writ Petition No.681 of 2002 is restored on file for hearing on its own merits.
- c) Civil application stands disposed off accordingly.

JUDGE