

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.674 OF 2017
IN
WRIT PETITION NO.11015 OF 2015**

Ashoka Buildcon Ltd. .Applicant

Vs.

The Niphad Sahakari Sakhar Karkhana Ltd. & ors. .Respondents

Mr.A.A.Garge, Advocate, for the Applicant

CORAM : R.G.KETKAR, J.

DATE : 24.03.2017

P.C.

. Heard Mr.Garge, learned counsel for the Applicant.

2. This is an Application for re-calling of the Order dated 19.01.2017 passed by the Registrar (Judicial-I) by which Petition was dismissed in default. By Order dated 19.01.2017, time up to 17.02.2017 to the Applicant was granted for taking steps against unserved Respondents, failing which Petition was to stand dismissed without further reference to the Court. Mr. Garge submitted that by Order dated 21.07.2016, notice was issued to the Respondents. In pursuance of that, bailiff submitted report to the effect that Clerk of the 1st Respondent has

refused to accept service on behalf of Respondents No1 to 3. This submission based on Order XXIX, Rule 2 of the Code of Civil Procedure, 1908 (For short “CPC”) was not accepted and Applicant was given time to take steps to serve Respondents No.2 & 3.

3. As the Respondents were not served and did not appear in the matter, Civil Application is allowed in terms of prayer clause (a) and W.P.No.11015 of 2015 is restored to its original position. On the next date of hearing, the Court will consider whether to issue notice to the Respondents or not.

(R.G.KETKAR, J.)