

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

**CIVIL REVISION APPLICATION NO. 336 OF 2007**

Nusli N. Wadia & Ors.

...Applicants

Versus

Harishchandra Pandurang Keni & Anr.

...Respondents

.....

Ms. Karishma Bharucha i/b. Mr. K.D.Abichandani for the Applicants.

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**CORAM: Mrs.MRIDULA BHATKAR, J.  
DATED: APRIL 20, 2017**

**P.C. :**

1. It is an issue of boundary wall/fencing. The applicants-original plaintiffs had filed S.C.Suit No. 790 of 1983 in the City Civil Court, Bombay seeking permanent injunction, as the plaintiffs wanted to construct the boundary wall/fencing around the suit land. In the said Suit, the respondent-original defendant, though served was absent. Hence, ex-parte decree came to be passed in favour of the plaintiffs on 10.08.2000. The suit was decreed with costs. An application for setting aside the ex-parte decree was filed by the defendants by way of preferring Notice of Motion, as there was delay in taking out Notice of Motion, Chamber Summons No.

1122 of 2006 was filed seeking condonation of delay.

2. Pursuant to that, after hearing both the parties, the learned Judge of the City Civil Court, Bombay by the order dated 17.03.2007/23.03.2007, set aside the ex-parte decree dated 10.08.2000 passed in S.C.Suit No. 790 of 1983. Hence, this Civil Revision Application.

3. Today, when the matter was called out, learned counsel for the respondent was not present. Name of respondent no.2 is deleted.

4. The learned counsel for the applicants, on instructions, submits that cost of Rs. 1000/-, which was saddled on the respondent, is also not paid by the respondents. None present for the respondents, though served.

5. In view of the above, this Civil Revision Application is allowed in terms of prayer clause (a).

**(MRIDULA BHATKAR, J.)**