

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL ST NO. 16008 OF 2014

The Board of Trustees of the Port of Bombay	...Appellant
<i>Versus</i>	
Madanlal Shah & Co & Anr	...Respondents

Mr UJ Makhija, *i/b Mulla & Mulla & Craigie Blunt & Caroe, for the Appellant.*
Ms Naseem Sumnani, *for Respondent No. 2.*

CORAM: G.S. PATEL, J
DATED: 12th July 2017

PC:-

1. Admit.

2. The First Appeal will have to be allowed immediately. The Suit was of 1990. The Plaintiffs sought, by filing an application Exhibit-5, for an adjournment to find documents. The case itself was old and was taken to the City Civil Court from the Bombay High Court where it was originally filed upon a change in the limits of the pecuniary jurisdiction of Courts. The order said that the case was old. Sufficient chances had been given. The suit was dismissed.

3. This was unnecessary. An order of costs would have sufficed. A final opportunity could have been given, making it clear that in default the matter would be dismissed. None of this was done.
4. It is not possible to sustain the impugned order of 18th January 2014. It is set aside. Suit No. 109955 of 1990 (High Court Suit No. 2307 of 1990) is restored to file.
5. Mr Makhija on behalf of the original Plaintiffs states that the Plaintiffs will by 31st August 2017 file all their evidence and documents. They will not seek any adjournment.
6. The First Appeal is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)