

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

**CIVIL APPLICATION NO.5223 OF 2001
IN
FIRST APPEAL (ST) NO.36488 OF 2001
WITH
CIVIL APPLICATION NO.5095 OF 2001
IN
FIRST APPEAL (ST) NO.36488 OF 2001**

Mohammed Mustafa Abdul Razak
Alias H.M. Mustafa ..Applicant/Appellant
V/s.
The State of Maharashtra
Through the Chief Secretary ..Respondents

Mr.Mobim Solkar i/by Mr.H.A. Solkar for the Appellant.

CORAM : M. S. SONAK, J.

DATE : 17 JANUARY 2017.

P.C.

1. On 21-02-2011, this Court made the following order:-

“It is stated that the advocate for the applicant is no longer in practice. Hence, issue court service notice to the applicant returnable on 12-04-2011.”

2. The record indicates that though notices were

issued, there is no clarity as to whether or not the same were duly served.

3. After six years i.e. on 10 January 2017, this Court, made the following order.

1] The matter relates to the year 2001. In the year 2011 statement was made that the Advocate for the applicant / appellant has quit practice. On the said basis, the matter could not proceed further. After five years, identical statement is being made and on this ground, adjournment is applied for. This is not correct. Particularly since the appellant has obtained an ad interim order in the matter. Accordingly, place this matter on 17 January 2017 on Supplementary Board (HOB) as and by way of last opportunity.

2] Ms Zara Salati, learned counsel appearing for the appellant states that necessary steps will be taken on or before the next date.

3] It is made clear that if the applicant / appellant does not proceed with the matter on the next date, this Court will have no option than to dismiss this matter for non prosecution.

4. Today, when the matter, is called out Mr.Mobim

Solkar again express his helplessness. The record indicates that this is First Appeal relates to the year 2001. It is not possible to adjourn the matter any further in a situation of this nature. Accordingly, the appeal and consequently the Civil Application therein are dismissed for non-prosecution.

5. The applicant/appellant can always apply for restoration after showing sufficient cause. This statement is added because Mr.Mobim Solkar learned counsel for the appellant states that even they have made attempts to contact the appellant, however, such attempts were not successful. He also points out that for the last 15 years appellants have not bothered to contact them. This means that the even advocates of the appellant have made all efforts in the matter.

6. The Appeal and Civil Application are dismissed for non-prosecution

(M. S. SONAK, J.)