

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

**FIRST APPEAL NO.251 OF 1997  
WITH  
CIVIL APPLICATION NO.2036 OF 1997  
IN  
FIRST APPEAL NO.251 OF 1997**

United India Insurance Co. Ltd. ..Appellant/Applicant  
V/s.  
Sayed Gause Moheoddin S/o  
Sayed A. Razak & Ors. ..Respondents

----  
Mr.Chotani for the Appellant/Applicant.  
----

**CORAM : M. S. SONAK, J.**

**DATE : 06 FEBRUARY 2017.**

**P.C.**

1. On 04-01-2017 this Court made the following order :-

*“1. By order dated 2 August 2011, the applicant was permitted to serve respondent No.4 by publication. Till date, admittedly, there is no service by publication. Instead, on 29 November 2011, an affidavit is filed on behalf of the applicant that respondent No.4 has been served through RPAD. In the circumstances of the present case, there is no question of accepting such affidavit. The order dated 2 August 2011 stands and in terms thereof, service was to have been effected by way of publication. Since the order dated 2 August 2011 has not been complied with, the civil application stands dismissed as*

*against respondent No.4.*

*2. Place this matter on 6 February 2017 on supplementary board.*

*3. It is made clear that since this appeal relates to year 1997, no further adjournments will be granted in the matter.”*

2. Today, Mr.Chotani who holds for Mr.Mukund Barve submits that Mukund Barve has already given notice to the appellant that he would not like to continue to appear in the matter. Along with the notice, appellant was made aware of the aforesaid order dated 04-01-2017, in which, it is clearly stated that no further adjournment will be granted as the matter relates to the year 1997. The letter addressed by Mr.Mukund Barve to the appellant Insurance Company is taken on record. In the letter, it is clearly stated that Mr.Barve will be applying for withdrawal of his appearance on 06-02-2017.

3. Accordingly, the request of Mr.Barve for withdrawal of appearance is accepted and Mr.Barve is discharged from appearance.

4. From the letter dated 04-01-2017 and the track consignment enclosed thereof, it is quite clear that the appellant Insurance Company has received the letter dated 04-01-2017 on 10-01-2017. There is an endorsement of MRO-II, which is stated to be the Mumbai Regional Office. Further, track consignment also makes it clear that the letter dated 04-01-2017 has been received at Solapur. Despite of this, neither any representative of the appellant nor any other counsel, appears today. This is an appeal which relates to the year 1997. The appeal has been dismissed as against respondent No.4. In such circumstances, there is no point continuing with the appeal or the Civil Application further.

5. The Appeal and Civil Application are therefore dismissed for non-prosecution. Interim order, if any, stands vacated.

**(M. S. SONAK, J.)**