

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11040 OF 2013

Anant Hari Naik & Anr.	.. Petitioners
VS.	
Kishor Danabhai Patel & Ors.	.. Respondents

Mr. Uday P. Warunjikar with Mr. S. Shirke for Petitioners.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE : 06 NOVEMBER 2017.

P.C. :-

- 1] Heard Mr. Warunjikar and Mr. Shirke for the petitioners.
- 2] The challenge in this petition is to the order dated 24th January 2013, by which, the learned trial Judge has restored the suit which had been dismissed for default. The impugned order notes that the reason given in the application seeking restoration is supported by medical certificate. The impugned order also notes that there was no reply filed by the petitioners opposing the application for restoration.
- 3] This is a case where discretion has been positively exercised by the trial Judge. This is not a case where no reasons were set out

for the default or no explanation was offered. There is no jurisdictional error in the making of the impugned order.

4] Accordingly, there is no reason to interfere with the impugned order. This petition is therefore dismissed. There shall be no order as to costs.

5] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

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