

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 324 OF 2015

Trishi Holdings Pvt Ltd

...Appellant

Versus

KT Enterprises & Ors

...Respondents

Mr KT Kukreja, i/b Jayesh Vyas, for the Appellant.

Mr AJ Almeida, for Respondent No. 4.

CORAM: G.S. PATEL, J

DATED: 10th July 2017

PC:-

1. The Notice of Motion before the Trial Court was for condonation of delay. This Notice of Motion was dismissed by a detailed order of 28th October 2014. The consequence was that the Plaintiff was completely non-suited. There is a great deal of controversy noted in the order about the Plaintiff, his representative, and his various Advocates. I do not think it is necessary to enter into this controversy. For one thing such a discussion will lend itself to no resolution at all and might conceivably result in a Court having to find fault with one or more Advocates. There are constraints on lawyers' time and it is not uncommon to see miscommunications between a litigant and his Advocate.

2. In fact, the Notice of Motion preferred was effectively to restore a Notice of Motion that was filed to restore the Suit. In

short, the Appellant wants to restore both the Notice of Motion and the Suit. Rather than restore just one, I will restore the Suit itself to file along with the Plaintiff's Notice of Motion for interim relief being Notice of Motion no. 2172 of 2009.

3. Both SC Suit No. 8337 of 1998 and Notice of Motion No. 2172 of 2009 are restored to file. All other Notices of Motion are disposed of as infructuous.

4. Parties will appear before the Trial Court on 28th July 2017 and obtain directions for completion for hearing of the Notice of Motion. The Trial Court is requested to give the Notice of Motion the maximum priority. The Trial Court will then take up the Suit for directions in the regular course.

5. It is clarified that the Plaintiff/Appellant is no longer at liberty to seek adjournment on the ground of non-availability of Advocates. In addition, he must remain personally present in Court on each day of hearing.

6. Mr Kukreja agrees to pay costs of Rs. 10,000/- to the Defendant No. 4 since the 4th Defendant is the only one who has contested this Application. The costs offered by Mr Kukreja will be paid to the Defendant No. 4 within a period of 10 days from today.

7. The Appeal from Order is disposed of in these terms.

(G. S. PATEL, J)