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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION No. 1539 of 2016

IN

APPEAL No. 867 of 2005

Oil & Natural Gas Corporation Ltd ..Applicants.

In the matter between:

Oil & Natural Gas Corporation Ltd ..Appellants.

Vs

M/s Rai Coastal Survey & Consultancy ..Respondents.

Mr. Pankaj Savant, Senior Counsel i/by Goenka Law Associates for the applicants.

Mr. Bimal Rajasekhar a/with Balaji H. Iyer i/by Ashwin Shankar for the Respondents.

**CORAM: NARESH H. PATIL &
SMT. BHARATI H.DANGRE, JJ.**

DATE : 20th June, 2017.

P.C.

1) By an order dated 12th February, 2016 the Division Bench of this Court (Coram: Anoop V. Mohta and G.S. Kulkarni,JJ) dismissed the appeal by passing the following order:

“None appeared for the appellant on 9.6.2015, 25.1.2016, 11.2.2016 and today again. Dismissed for default. Rule stands discharged. No costs.”

2) The present notice of motion is filed seeking restoration of the appeal filed by the appellants. Learned Counsel appearing for the respondents in an affidavit-in-reply to the notice of motion in paragraphs 7 and 8 stated as under:-

“7. I state that the present Notice of Motion is a mere afterthought of the applicant / original appellant. The applicant/original appellant admits to knowing that the appeal was listed for hearing before the Hon'ble Court and failing to appear. The applicant/original appellant's failure to appear was not a one-off instance – the fact that the applicant/original appellant had failed to appear multiple times is recorded by Their Lordships in the order dated 12th February, 2016.

8. I state that the present Notice of Motion was served upon the Respondent on 19th June, 2017. In the meantime, the Respondent has filed Commercial Execution Application No. 10 of 2016 pursuant to the dismissal of the appeal by the Hon'ble High Court. The Hon'ble Court has even issued Notice under O. XXI of the Code of Civil Procedure, 1908 to the applicant/original appellant.”

3) Learned Senior Counsel appearing for the applicants/appellants submits that for the reasons stated in the application, the application may be allowed. It is submitted that there is no intention to delay the appeal. The appellants are ready and willing to go ahead with the hearing of the appeal at any time as

fixed by this Court.

4) Considering the submissions advanced and looking to the facts, the appeal which is pending for final hearing since the year 2005, we find it appropriate to restore the appeal and direct the Registry to list the appeal for final hearing.

5) The order dated 12th February, 2016 passed by this Court is recalled. The appeal is restored to the file. The Notice of Motion stands disposed of accordingly.

6) The appeal be listed on the final hearing weekly board commencing from 27th June, 2017 at its appropriate place.

(SMT. BHARATI H. DANGRE,J)

(NARESH H.PATIL,J)