

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.27353 OF 2016

(Kantilal K. Varia Vs. Rushabh Developers)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
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None for the parties.

CORAM : R. G. KETKAR, J.**DATE : 10TH JULY, 2018****P.C.:**

Perused the order dated 21.03.2018. In that order, submission of Mr. Patil that the controversy raised in these Petitions is covered by the decision of this Court dated 19.10.2016 passed in Writ Petition No.5748 of 2016 was noted. In view of this submission, notice for final disposal was issued to the respondent in all the Petitions. It was made clear that if the respondent fails to appear, the Court would proceed to decide the Petitions on their own merits.

2. Office remark shows that the sole respondent is duly served. Despite service, neither respondent appears through the authorized representative nor it has entered appearance. **Rule.**

3. For the reasons recorded in the order dated 19.10.2016 passed in Writ Petition No.5748 of 2016, Petition is disposed of in the following terms:

[i] Impugned order dated 10.02.2016 passed by the Appellate Bench of the Small Causes Court at Bombay below exhibit-14 in A(1) Appeal No.53 of 2011 is quashed and set aside and application exhibit-14 is restored to the file of the Appellate Court;

[ii] While deciding the main appeal, Appellate Court will consider afresh application exhibit-14 and record findings in terms of Order XLI, Rule 27(1)(b) of the Code of Civil Procedure, 1908;

[iii] Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

Minal Parab