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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO. 219 OF 2018
IN
ARBITRATION PETITION NO. 119 OF 2017

Ramesh Chandra Raghuvanshi s/o Shri.
Mukund ...Applicant/petitioner

VS

M/s Tata Motors Finance Ltd. & Ors. ...Respondent.

.....
Mr Ajinkya Lokare for the Applicant/petitioner.
Mr Chinmay Gupte i/b Mohit Gadkari for Respondent No.1.
.....

**CORAM : R.D.DHANUKA, J.
APRIL 19, 2018.**

P.C. :

By this Notice of Motion, the petitioner seeks restoration of Arbitration Petition which was dismissed for want of prosecution on 2nd November, 2017.

2 Learned advocate for the respondent seeks time to file an affidavit-in-reply. The Notice of Motion was served upon the respondent in the month of January 2018. No affidavit-in-reply is filed on record.

3 I have heard learned counsel for parties. Learned

advocate for the applicant invited my attention to the averments made in the affidavit-in-reply and also to the annexure thereto which is a medical certificate issued by the doctor certifying that the learned advocate on record was not keeping good health when the matter had appeared before this Court.

4 Learned advocate for Respondent No.1 submits that on earlier occasion also the petitioner was absent and this Court rightly dismissed the Writ Petition on 2nd November, 2017.

5 On 28th September, 2017 this matter appeared on board and was adjourned to 5th October, 2017 on the request of the learned advocate for the petitioner. The matter appeared on board on 2nd November, 2017 when the learned advocate for the petitioner being unwell remained absent, I am inclined to accept the averments made in the affidavit in support and the medical certificate issued at Exh.A. No affidavit-in-reply is filed though Notice of Motion was served in the month of January.

5 For the reasons recorded in the affidavit in support

of Notice of Motion, the order dated 2nd November, 2017 passed by this Court in Arbitration Petition is recalled. Arbitration Petition No. 119 of 2017 is restored to file. The petitioner is directed not to seek any adjournment in this Arbitration Petition on any ground.

6 The Notice of Motion is made absolute in terms of prayer clauses (a) and (b). The petitioner is directed to pay costs of Rs.5000/- to respondent No.1 within one week from today. Place the Arbitration Petition on board for admission on 7th June, 2018.

(R.D.DHANUKA, J.)