

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 61 OF 2018****IN****CONTEMPT PETITION NO. 50 of 2004**

Vasantrao Namdeo Jadhav (deceased)
and others

.....Applicants

V/s.

Govind Laxman Pujari and others

.....Respondents

Mr. S. G. Deshmukh for applicants

Mr. Dilip Bodake for respondent nos. 1 to 5

CORAM : K. K. TATED, J.

DATE : MARCH 15, 2019.

P.C.

Heard learned counsel for the parties.

2 By this Civil Application, applicant is seeking to recall the order dated 08/01/2016 passed by this Court by which Contempt Petition No. 50/2004 was dismissed for non prosecution.

3 The learned counsel for the applicant submits that on that day, Advocate for the applicant was held up in another matter. Hence, no one appeared, when the matter was called out. He submits that applicant has a good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to recall the order dated 08/01/2016 and hear the matter on its own merits.

4 On the other hand, the learned counsel appearing for respondent nos. 1 to 5 vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for non appearance on 08/01/2016 when the matter stand dismissed for non prosecution.

5 Considering the submissions made by the learned counsel for the applicants, averments made in the Civil application and on 08/01/2016, no one appeared when the matter was called out, I am satisfied that applicant has made out case for allowing Civil Application.

- (I) Order dated 08/01/2016 is recalled.
- (II) Contempt Petition No. 50 of 2004 is restored to file.
- (III) The learned counsel Shri. Bodake waives service for respondent nos. 1 to 5 in Contempt Petition.
- (IV) Civil Application stands disposed of accordingly.
- (V) No order as to costs.

[K. K. TATED, J.]