

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.177 OF 2019
IN
CIVIL REVISION APPLICATION NO. 760 OF 2009

Nanakumar Ganpat Phalke and others ...Applicants

vs.

Vasudev Shobraj Rao ...Respondent

Mr. Surel S. Shah I/b. Mr. V.V. Mohite for the Applicants.
Mr. Vishal Kanade i/b. Mr. H. J. Lulia for Respondent.

CORAM : M. S. SONAK, J.

DATE : APRIL 26, 2019

P.C.:

Heard Mr. Shah Learned Counsel for the applicants and Mr. Kanade Learned Counsel for the respondent.

2. This is second occasion on which this revision application is sought to be restored after the same was dismissed for non prosecution. The earlier application for restoration was taken out only after the respondent applied for execution and even warrant of possession was issued. Therefore, on the second occasion, applicant was excepted to act with greater diligence. However, that was not the case.

3. Nevertheless, taking into consideration the fact that the applicant has offered to pay costs of Rs.50,000/- within 4 weeks from today and in interest of justice, the order dated 28.03.2019 is hereby recalled and Civil Revision Application No. 760/2009 as well as interim relief which operating therein is restored. This shall be subject to the applicant paying costs of Rs.50,000/- to the respondent within 4 weeks from today. Once the cost are paid, the applicant to file affidavit of compliance alongwith proof of payment. If no such costs are paid and affidavit is not filed, then, this application shall deem to have been dismissed.

4. However, if there is compliance, place this Civil Revision Application for final hearing on 13.06.2019 high on board. It is made clear that no further adjournment will be granted at the behest of applicant. The Civil Application is disposed of with the aforesaid direction.

5. All concerned are directed to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)