

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8941 OF 2017

Ree Magtapes Pvt.Ltd. & Ors.

...Petitioners

Versus

**Industrial Development Bank of India &
Ors.**

...Respondents

Ms. Gargi Bhagwat, a/w Ms. Shristi Shetty, i/b Divekar Bhagwat & Co., for the Petitioners.

Ms. Jaya Alle, i/b Indialaw LLP, for the Respondents No. 1 and 2.

Ms. U.M. Jhaveri, for the Respondent No. 3.

**CORAM : A.A. SAYED &
RIYAZ I. CHAGLA, JJ.**

DATE : 18 January 2019

ORDER :

1. The Petition is directed against the order dated 27th April 2017 passed by the D.R.A.T. whereby the Application of the Petitioners for restoration of the Appeal which was dismissed for default on 30th September 2014, came to be

rejected. It is an admitted position that on the two dates prior to the date on which the Appeal was dismissed, either the Court was vacant or the Chairperson was on leave. It is the case of the Petitioners that on 30th September 2014 when the Appeal was dismissed, due to inadvertence, the date of the hearing of Appeal No. 6 of 2011 had not been entered into his diary by the Advocate.

2. In our view, for the mistake of the Advocate, the Petitioners cannot be penalised. In these circumstances, in the interest of justice the Writ Petition is allowed in terms of prayer clause (a) and the Appeal No.6 of 2011 is restored to file subject to costs of Rs. 15,000/- (Rupees Fifteen Thousand only) to be paid by the Petitioners to the Respondent No. 1-Bank within a period of three weeks from today.

[RIYAZ I. CHAGLA J.]

[A.A. SAYED, J.]