

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

**CIVIL APPLICATION NO. 2453 OF 2019
IN
FIRST APPEAL NO. 1062 OF 2017**

Excellent Industries Resources Ltd., Applicant.
Vs.

The Board of Trustee of Part of Mumbai Respondent

.....
Mr. Nishit Tanna i/b Atul Singh for the Applicant.
Ms. L. Bussa i/b M. Kini & Co. for Respondent.
.....

CORAM : K.K.TATED, J.
DATED : JULY 23, 2019

P.C.

- 1 Heard Learned Counsel for the parties.
2. By this Civil Application, the Applicant is seeking to recall the order dated 26th March 2019 passed by this Court by which the First Appeal stood dismissed for non prosecution.
3. Considering the Submission made by the Learned Counsel for the Applicant and because of mistake on the part of the advocate, applicant should not suffer, I am satisfied that the Applicant has made out case for allowing this Civil Application, but at the same time the Applicant has to pay cost of Rs. 10,000/-. Hence, the following order is passed:
 - a. The order dated 26th March 2019 passed by this Court is recalled.

- b. The First Appeal No. 1062 of 2017 is restored on filed for hearing on its own merits.
- c. The Applicant to deposit cost of Rs. 10,000/- in Kiritikar Library, First Floor, Appellate Side, Bombay High Court on or before 31st July, 2019 and place on record receipt to that effect, failing which Civil Application shall stand dismissed without further reference to the Court.
- e. Civil Application is disposed of accordingly.

(K.K.TATED, J.)