

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL APPLICATION NO.551 OF 2018
in
APPEAL FROM ORDER NO.769 OF 2015**

Kaushaliya wd /o. Gupta & ors .. Applicants
vs
Murli S.Gupta & ors .. Respondents

Mr.Shamrao Gore for Applicants

CORAM : K.K.TATED , J
DATE : 9th April, 2019

P.C

Heard learned counsel for the Applicants.

2. By this Civil Application, the Applicant is seeking to recall the order dated 17.4.2018 passed by this Court by which the Appeal from Order No. 769 of 2015 stood dismissed for non-prosecution.

3. Learned counsel for the Applicant submits that earlier advocate Mr.Y.R.Dubey was appearing for the applicant. He submits that Mr.Y.R.Dubey expired on 15.3.2018 and matter appeared before this Court on 17.4.2018. Hence, no one appeared on behalf of the Applicant when the matter was called out.

4. Learned counsel for the Applicant submits that as soon as the applicant learnt that the matter is dismissed for non-prosecution, he contacted the present Advocate and filed the present Civil Application for

restoration of the Appeal from Order. He submits that in the interest of justice, this Hon'ble Court be pleased to restore the Appeal on file for hearing on its own merits.

5. Considering the above submissions made by the learned counsel for the applicant, and averments made in para 6 of the Civil application and as the earlier Advocate Mr.Y.R.Dubey expired on 15.3.2018 and the matter appeared before this Court on 17.4.2018, I am satisfied that the Applicant has made out a case for allowing this Civil application. Hence, the following order :

O R D E R

- (A) Order dated 17.4.2018 passed by this Court is recalled.
- (B) Appeal from Order No.769 of 2015 is restored on file for hearing on its own merits.
- (C) Applicant to remove all office objections if any on or before next date.
- (D) Civil Application disposed of accordingly.
- (E) No order as to costs.

{K.K.TATED, J}