

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

**CIVIL APPLICATION NO. 2162 OF 2019
IN
WRIT PETITION NO. 5527 OF 2016**

Shri. Mukesh B. Jhaveri

.... Applicant

Versus

Shri. Shrikrishna K. Jindal & Ors.

.... Respondents.

Mr. Pravin U. Gaikwad for the Applicant.

Mr. Girish R. Agrawal for Respondents.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 27th SEPTEMBER, 2019

P.C.:

1. The applicant/petitioner has abused the process and that has resulted in dismissal of the writ petition. Now, once again the applicant/petitioner has come up with an application for having writ petition restored. He filed medical certificate, as he did earlier, and also pleaded that he could not engage a counsel because of his injury.

2. The learned counsel for the respondents strenuously opposed the restoration of the writ petition. He has submitted that the petitioner's plea in the restoration application is completely false. According to him, every time a new counsel appears and informs the Court that he is filing his Vakalatnama, but never files.

The petitioner's contention that because of his injury, he could not engage an advocate can not be sustained, he concludes.

3. I am not impressed by the excuses, which the petitioner offered. At any rate, the Court always desires to have any dispute before it disposed of on merits rather than on technicalities.

4. Therefore, in the interest of justice, I set-aside the dismissal and allow the petitioner to contest the matter on merits, subject to the condition that the petitioner should pay as costs Rs.5000/- to the respondents in a week's time. He should proceed with the matter on the next date, least the writ petition stands dismissed, again, without further recourse.

5. I allowed the petitioner's counsel to choose a date. He has chosen 15th October 2019 as the date for him to argue the matter.

6. This is a conditional order, non-compliance of which will lead to the dismissal of writ petition.

7. Civil Application is disposed of accordingly.

(DAMA SESHADRI NAIDU, J.)