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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2778 OF 2017

Sudhir Premlal Shah	..Petitioner.
V/s.	
Bhausahab Shankar Kore & Ors.	..Respondents.

Mr.Sandesh D.Patil with Kiran B.Bhagat for the petitioner.

Mr.Manoj Patil with Gauran N. for respondent Nos.1 & 2.

CORAM : M.S.SONAK, J.

DATE : APRIL 22, 2019

ORAL JUDGMENT

Heard Mr.Sandesh Patil, learned counsel for the petitioner and Mr.Manoj Patil, learned counsel for respondent Nos.1 and 2.

2. Rule. Rule made returnable forthwith with the consent and at the request of the parties.

3. Challenge in this petition is to the orders dated June 15, 2015 and June 29, 2015 by which the suit of the petitioner was dismissed for non prosecution.

4. Without going into the issue as to whether the impugned orders are appealable or not, the ends of justice will be met if the

impugned orders are set aside, subject to the petitioner depositing costs of Rs.10,000/- before the learned trial Judge within a period of four weeks from today. If the costs are deposited, the respondents will have unconditional liberty to withdraw the same.

5. If the costs are not paid within a period of four weeks from today, then, this petition shall be deemed to have been dismissed with costs of Rs.10,000/- without further reference to this Court.

6. The aforesaid order is made taking into consideration the circumstances that the learned counsel for the petitioner had appeared on the same day i.e. June 15, 2015 when the suit came to be dismissed for non prosecution. Thereafter, the reasons have been set out in the application seeking restoration. Taking into consideration this peculiar circumstances, this petition is allowed subject to the payment of costs as aforesaid.

7. Rule is made absolute in the aforesaid terms.

8. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)