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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 308 OF 2019
IN
SUIT NO. 301 OF 1996

Sea View Shopping Arcade Pvt Ltd	...Applicant/ Plaintiff
<i>Versus</i>	
Skylark Coop Housing Society Ltd & Ors	...Defendants

Mr Bharat Vaishnava, i/b B Vaishnava & Co, for the Applicant.
Mr Milind More, AGP, for State.
Ms Shweta B Kamble, i/b Lakshmi Murali & Associates, for
Respondents.

CORAM: G.S. PATEL, J
DATED: 8th April 2019

PC:-

1. The Notice of Motion is for restoration of a suit. The Prothonotary & Senior Master dismissed it on 27th June 2001. He did so because the Plaintiffs had not served the writ of summons on the Defendants.

2. The restoration Motion is delayed by 18 years. Extraordinary as this delay is, it is eclipsed by the even ore extraordinary reasons given in the Affidavit in Support. There, the deponent, Abhijeet,

tells of his father and brother being brutally murdered, one in Chiplun and the other near Satara by what is described as a land mafia. He says that he and his family were in shock and were unable to attend to this litigation.

3. The suit itself is for specific performance. Although there may be a tragedy to the Plaintiffs' case, I cannot be oblivious to the fact that the 1st Defendant is a cooperative society with individual members. Defendants Nos. 2 and 3 are representatives of the Government. Property prices have changed dramatically in the time that has passed since the date of dismissal. The matter has been closed for 18 years, and to re-open it now would cause immense prejudice to all the Defendants. Apart from the fact that the explanation does not extend over this time span, there is no amount of costs that can fairly be imposed on the Applicant that would compensate the Defendants for the enormous prejudice likely to be caused.

4. The Notice of Motion is dismissed. There will be no order as to costs.

(G. S. PATEL, J)