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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION (LODGING) NO.117 OF 2019
IN
WRIT PETITION NO.356 OF 2010

Charkop Om Gayatri Co-op. Hsg. Soc. Ltd. ...Applicant

IN THE MATTER BETWEEN :

Charkop Om Gayatri Co-op. Hsg. Soc. Ltd. ...Petitioner

V/s.

Vasantsingh R. Purohit ...Respondent

Mr.Virendra M. Joshi for the Applicant / Petitioner.
None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 5TH JULY, 2019.

P.C. :-

1. Learned counsel appearing for the applicant states that the respondent has been served. None appeared for the respondent when the matter was called out.
2. By this notice of motion, the applicant seeks recall of the order dated 2nd February, 2015 passed by this Court dismissing the writ petition for default.
3. With the assistance of the learned counsel for the applicant I have perused the averments made in the affidavit in support of the notice of motion, large number of annexures annexed

to the affidavit in support of the notice of motion placing on record various medical records of the learned counsel who is appearing for the applicant who suffered from various diseases and was under treatment. I have also perused the affidavit in reply filed by the respondent and the rejoinder filed by the applicant a copy whereof are tendered across the bar. In my opinion, none of the defences raised by the respondent in the affidavit in reply have any substance. Most of the paragraphs of the reply record bare denial to the averments made in the affidavit in support of the notice of motion and the documents annexed to the affidavit in support of the notice of motion. In my view, the applicant has made out a case for recall of the order dated 2nd February, 2015 and for condonation of delay in filing the notice of motion and for restoration of the interim order dated 13th January, 2010 passed by this Court for the reasons recorded in the affidavit in support of the notice of motion.

4. The notice of motion is made absolute in terms of the prayer clauses (a) to (c). There shall be no order as to costs.

5. Place the Writ Petition No.356 of 2010 on board for hearing and final disposal on 6th August, 2019.

(R.D. DHANUKA, J.)