

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 114 OF 2019

IN

COMPANY APPLICATION NO. 404 OF 2018

Santosh Shyam Mogaveera & ors.

...Appellants

Versus

Nutrix Hospitality Services Pvt. Ltd.

...Respondent

Mr. Arsh Mishra, I/b M. V. Kini & Co., for the Appellants.
None for the Respondent.

**CORAM: R. M. BORDE &
N. J. JAMADAR, JJ**

DATED: 22nd April, 2019

PC:-

1. The instant appeal is presented for challenging the order passed by the learned Single Judge on 26th September, 2018, rejecting the application for restoration of company petition, which came to be dismissed on 12th January, 2018 for non-prosecution.

2. An Affidavit-in-reply has been presented by the Appellant wherein it has been stated that in view of the technical difficulty in tracking the matter on the list of the daily board, the learned Counsel could not remain present on the said date and, as such, the company petition came to be dismissed for non-prosecution.

3. In spite of service of notice, none appears for the Respondents.

4. Mr. Mishra, the learned Counsel appearing for the Appellants state that the Appellants would bear the expenses of advertising restoration of the petition in the local newspapers. Considering the contentions disclosed by the Appellants in the Affidavit and in order to meet end of justice, we deem it appropriate to give one more opportunity to the Appellants. For the reasons recorded above, the order impugned in the petition passed by the learned Single Judge on 26th September, 2018, is quashed and set aside.

5. Company Petition No.828 of 2015 stands restored to its original status.

6. The Appellants shall advertise the restoration of the company petition in two local newspapers i.e. 'Free Press Journal' and 'Navshakti' within two weeks from today.

7. The Appeal is disposed of accordingly. There shall be no order as to costs.

[N. J. JAMADAR, J.]

[R. M. BORDE, J.]