

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION NO.2516 OF 2018****IN****CHAMBER ORDER NO.41 OF 2018****IN****CHAMBER ORDER NO.1097 OF 2017****IN****ARBITRATION PETITION (L) NO.1207 OF 2016**

Md. Farook Chaudhary

....Applicant/Petitioner

vs

Tata Capital Financial Services Ltd.

(Formerly known as Tata Capital Ltd.)

...Respondent

.....

Mr. Amarendra P. Jha, for the Applicant/Petitioner.

Mr. Nikhil Mehta, i/b. KMC Legal Venture, for the Respondent.

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CORAM : S.C. GUPTE, J.**DATED: 6 FEBRUARY 2019****P.C.:**

. This notice of motion is taken out by the Applicant/original Petitioner for recall of a self-operative order of dismissal for non-removal of office objections and seeking an extension of time for removal of objections. The self-operative order was passed on 12 September 2018 directing the Applicant to remove office objections within two weeks. There is a delay in taking out this Notice of Motion. The delay is sought to be explained on the ground that the Applicant was busy, since his elder brother was undergoing treatment in Tata Cancer Hospital. The self-operative order of dismissal was passed on Chamber Order No.41 of

2018. That chamber order itself was taken out in another chamber order (Chamber Order No.1097 of 2017), which was filed for restoration of the petition dismissed on 6 June 2017 under the provision of Rule 986 of the Original Side Rules. The first chamber order was taken out in a notice of motion praying for condonation of delay in filing the arbitration petition. The arbitration petition challenges an award passed on 15 January 2016, which is said to have been served on the Applicant/Petitioner on 9 March 2016. The arbitration petition is evidently beyond limitation and cannot be entertained. The reason cited in the original notice of motion for condonation of delay is that the Applicant/Petitioner had originally filed an appeal under Section 37 challenging the award. There is no explanation how the arbitration petition was sought to be challenged, in the first place, by an appeal filed under Section 37. The appeal such as this cannot be treated as a bonafide prosecution of remedy. There appears to be lack of diligence throughout the proceedings after the passing of the impugned award. In the premises, there being no cause made out to explain the delay and woeful lack of diligence in prosecuting the arbitration petition, this Court is not inclined to entertain the notice of motion and give any relief to the Applicant/Petitioner. The notice of motion is, accordingly, dismissed.

(S.C. GUPTE, J.)