

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 556 OF 2021

Mr. Mohanlal Lakhaji @ Lakharami
Choudhary

..Petitioner

v/s.

M/s. Ajay Construction Company
& Ors.

..Respondents

Mr. Sachin Gite for the Petitioner.
Sudhanva S. Bedekar for the Respondent No.3.
Mr. Arjun Kadam a/w. Mr. S.R.Nargolkar for the Respondent Nos.4
and 5.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : MARCH 17, 2021.**

P.C.

1. The Petitioner herein has challenged the order dated 27th June, 2019, whereby the learned Judge has dismissed the application for restoration of suit, which was dismissed for non-prosecution.
2. Heard ld.Counsel representing the respective parties.
3. The records reveal that the said civil suit was dismissed on 23rd January, 2006 for non-prosecution. In para (3) of the

application for restoration, the Petitioner had stated that he was unwell and was under medical treatment on 23rd January, 2006 and he was unable to inform his advocate that he would not be attending the Court. It is stated that the ld. Advocate for the Petitioner was under an impression that the Petitioner will be attending the Court and hence they did not file any application for adjournment.

4. Considering the grounds stated in the application, and in the interest of justice, the proceeding needs to be restored to the file, subject to cost of Rs.20,000/- to be paid to the defendants.

5. Under the circumstances, the impugned order is set aside. The suit stands restored to the file on payment of costs of Rs.20,000/- to the defendants.

Prasanna
P.
Salgaonkar

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Prasanna P.
Salgaonkar
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(ANUJA PRABHUDESSAI, J.)