

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

MCA NO.479/2017 IN W.P. NO.2216/2009
M/s.Maghanmal and Company, thr. its Partner Nagpur

..VS..

Kisanlal B.Lilhare, Gondia and anr

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri Jamal, Counsel for the Applicant/Petitioner.
Shri S.W.Sambre, Counsel for Respondent No.1.
Shri I.J.Damle, AGP for Respondent No.2.

CORAM : V.M.DESHPANDE J.
DATED : JANUARY 25, 2021.

1. This is an application for restoration of Writ Petition No.2216/2009 which was dismissed for want of prosecution on 6.4.2017.
2. Heard learned counsel Shri Jamal for the applicant/petitioner, learned counsel Shri S.W.Sambre for respondent No.1, and learned Assistant Government Pleader Shri I.J.Damle for respondent No.2.
3. The writ petition filed on behalf of the petitioner was admitted for its final hearing. However, the said petition was dismissed since nobody appeared on behalf of the petitioner when the writ petition was taken up for final hearing.
4. The application is strongly opposed by learned counsel Shri S.W.Sambre for respondent No.1 and learned Assistant Government Pleader Shri I.J.Damle for respondent No.2.
5. As per the application, due to mistake on the part of learned counsel for the applicant he did not remain present and,

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therefore, indulgence be shown.

6. Learned counsel Shri S.W.Sambre for respondent No.1, submits that on four occasions, learned counsel for the petitioner was absent.

7. Undoubtedly, it is duty of every Advocate to remain present when matters are called out. However, due to failure on the part of Advocate litigants should not suffer. On this principle , I allow this application. Hence, following order:

ORDER

(1) The misc. civil application is allowed subject to the applicant/ petitioner paying costs of Rs.5000/- to respondent No.1 within a period of two weeks from today.

(2) Learned counsel Shri S.W.Sambre for respondent No.1 is permitted to receive the said costs for and on behalf of respondent No.1.

(3) If costs is paid, the writ petition shall stand restored.

With this, this misc. civil application stands disposed of accordingly.

JUDGE

!! BRW !!

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