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

INTERIM APPLICATION NO. 16597 OF 2022

IN

WRIT PETITION NO. 5883 OF 1998

Balkrishna Narayan Alchetti
(since deceased) through LRs.

Smt.Radhabai Balkrishna Alchetti

...Applicant

vs.

Dhondiba Vithoba Jagtap & Anr.

...Respondents

Mr.Sanjay Kshirsagar, Advocate for Applicant.

Mr.V.B.Tapkir, Advocate for Respondents.

CORAM : S. M. MODAK, J.

DATE : 23rd SEPTEMBER, 2022

P. C. :-

1. Heard learned Advocate Shri.Kshirsagar for the Applicant and learned Advocate Shri.Tapkir for the Respondents. As per the order dated 17th March, 2022, Writ Petition was dismissed for non appearance on behalf of the Petitioner. It is true that the present Writ Petition was admitted and it was fixed for final hearing. It is also true that during the pendency of the Writ Petition, interim relief was granted.

2. By way of Writ Petition, the Petitioner-tenant has challenged the concurrent findings against him. It is also submitted on behalf of the Respondents that in view of the dismissal of Writ Petition, the interim relief stand vacated and now, the Respondent is entitled to execute the

decree and now, the matter is fixed before the Executing Court on 26th September, 2022.

3. Learned Advocate for the Respondents vehemently opposed the prayer for restoration.

4. Considering the fact that the Writ Petition was dismissed on 17th March, 2022 for non appearance of the Petitioner and considering the reasons mentioned in the Application, this Court feels that the Writ Petition needs to be restored. Accordingly, the interim relief granted earlier also needs to be restored.

5. It is also made clear that in future, if the Petitioner will continue to non appear, this Court will be compelled again to dismiss the Petition and also to impose cost of Rs.25,000/-.

6. In view of that, Application is allowed. Writ Petition as well as interim relief granted earlier, is restored.

7. Matter be kept for “final hearing” on 18th November, 2022.

[S. M. MODAK, J.]