

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

**APPEAL FROM ORDER NO. 377 OF 2017
IN
NOTICE OF MOTION NO. 3118 OF 2016
IN
S.C. SUIT NO. 629 OF 2008
WITH
CIVIL APPLICATION NO. 483 OF 2017**

**ALONGWITH
APPEAL FROM ORDER NO. 378 OF 2017
IN
NOTICE OF MOTION NO. 3119 OF 2016
IN
S.C. SUIT NO. 630 OF 2008
ALONGWITH
CIVIL APPLICATION NO. 484 OF 2017**

**VIKRAAM VIJAYKUMAR SINGH } APPELLANT
(ORIG. PLAINTIFF)**

V/S.

**SONABAI GOVINDJI BORICHA
AND ORS. } RESPONDENTS
(ORIG. DEFENDANTS)**

*** * * ***

**Mr. Diwakar Dwivedi i/by. Mr. Pankaj Dwivedi,
Advocate for the appellant.**

**Mr. Yogendra M. Kanchan, Advocate for respondents
no.1A to 1F.**

**Coram : Sandeep K. Shinde, J.
(through Video Conference).**

Friday, 4th February, 2022.

P.C. :

- 1) Heard learned Counsel for the parties.
- 2) Appellant instituted S.C. Suit No.629 of 2008 and S.C. Suit No.630 of 2008 in the City Civil Court at Bombay. On 3rd July, 2006, when suits were called out for hearing, plaintiff and his Advocate were absent. Defendant was present. The trial Court therefore dismissed the suits. Appellant-plaintiff applied for restoration of the suits on 16th August 2016, alongwith an application to condone the delay of 10 years, caused thereto. In paragraph-5 of the application, plaintiff pleaded that, he had suffered heart ailment in February, 2006 and was advised bedrest by the Doctor. He would, further plead that, he had also suffered paralysis attack and in consequence was bedridden till 2010. In support of these assertions, plaintiff had placed on record, the MRI Scan of Brain dated 28th August, 2008, ECG Report dated 20th August, 2008 and blood tests report. Neither of these reports suggest or indicate that, plaintiff had suffered heart-ailment or paralysis attack and was bedridden till 2010. Even assuming, that the appellant

was bedridden till 2010, the fact remains, he had applied for restoration of the suit in August, 2006. As such, plaintiff has not explained, why he could not move the Court for restoration of suit, soonafter he recovered from the paralysis attack. On the contrary, a document brought on record by the defendant, shows that, the plaintiff had applied for certified copy of order dismissing his suit on 19th December, 2006 and received the same on 20th December, 2006. This fact clearly shows that, the plaintiff was aware and knew that, his suit was dismissed in the year 2006. In consideration of the facts stated above, no case is made out for interference in the impugned order.

3) The Appeals are dismissed. With dismissal of the Appeal, Civil Applications No. 483/2017 & 484/2017 becomes infructuous and does not survive. The same also stands disposed of.

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(Sandeep K. Shinde, J.)