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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER ORDER NO.61 OF 2020
IN
COMS SUIT (L) NO.852 OF 2019
WITH
NOTICE OF MOTION (L) NO.1893 OF 2019

Ankita Builders and Developers

...Applicants/
Plaintiffs

Versus

Gandhi Niwas CHS Ltd. & Ors.

...Defendants

Mr. Deepak Shukla i/b. B N. Shukla and Co. for the Applicants /
Plaintiffs.

CORAM : R.I. CHAGLA J

DATE : 18TH OCTOBER, 2022

ORDER :

1. Heard learned Counsel for Applicants / Plaintiffs.
2. By this Chamber Order filed in the year 2019, the Applicant is seeking restoration of Commercial Suit (L) No.852 of 2019 with Notice of Motion (L) No.1893 of 2019 which had been dismissed for non removal of office objections within a period of four

weeks from the order of the Prothonotary and Senior Master of this Court dated 7th November, 2019.

3. The Applicant has stated that due to default of his Advocate, the office objections were not removed within the time stipulated by order dated 7th November, 2019. The Applicant has stated that in and around 1st week of the December, 2019, upon going through the official website of this Court and checking status of the Commercial Suit along with Notice of Motion, the Applicant learnt that the Commercial Suit along with Notice of Motion was listed before the Prothonotary and Senior Master on 7th November, 2019 and the conditional order in the matter was passed. By virtue of the conditional order, the captioned Commercial Suit along with Notice of Motion has been rejected under Rule 986 of the Bombay High Court Original Side Rules.

4. The Applicant has further stated that by virtue of the default of the Advocate in removing the office objections and not informing the Applicant of the day when the matter had come up before the Prothonotary and Senior Master, when the conditional order was passed, the Applicant could only thereafter take steps in

the second week of December, 2019 to take out Chamber Order for restoration of the captioned Commercial Suit along with Notice of Motion.

5. Having considered the submissions as well as Affidavit in Support thereof, I am of the view that there is default on the part of the Advocate in complying with office objections within the time stipulated by the Prothonotary and Senior Master vide conditional order dated 7th November, 2019. The Applicant was not informed when the matter had come up before the Prothonotary and Senior Master and hence should not be made to suffer for default on the part of the Advocate.

6. In that view of the matter, the Chamber Order requires to be allowed. Hence the following order:-

(i) The Chamber Order is allowed.

(ii) The captioned Commercial Suit along with Notice of Motion are restored to file by recalling the conditional order dated 7th November, 2019.

(iii) The Applicant / Original Plaintiff shall take steps to remove office objections within a period of four weeks from the date of this Order, failing which the captioned Commercial Suit along with Notice of Motion stand rejected without further reference to the Court.

(iv) Chamber Order is accordingly disposed of.

[R.I. CHAGLA J.]