

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL APPELLATE DIVISION
INTERIM APPLICATION NO. 2188 OF 2021
IN
COMMERCIAL APPEAL NO. 93 OF 2020
IN CHAMBER SUMMONS IN COMMERCIAL DIVISION
MATTER NO. 17 OF 2019
WITH
INTERIM APPLICATION NO. 1949 OF 2020
IN
COMMERCIAL APPEAL NO. 93 OF 2020**

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Apex Hospitality	...Applicant
<i>In the mater between</i>	
Apex Hospitality	...Appellant
<i>Versus</i>	
Avis Motors Pvt Ltd	...Respondents

Mr Kiran Mishra, with Nutan Moily, for the Applicant/Appellant.
Mr Rohan Cama, with TN Tripathy, i/b TN Tripathy & Co, for the
Respondent.

**CORAM G.S. Patel &
 Gauri Godse, JJ.**
DATED: 12th August 2022

PC:-

1. By an order of 25th March 2021, a Division Bench dismissed the Appeal. It noted that on 5th February 2021 none appeared. It was adjourned on 25th February 2021. Again on 12th March 2021, none appeared. On 25th March 2021, the Appellants were represented but were apparently not ready to go on.

2. Ordinarily, we would not have accepted such an application but for the fact that in paragraph 5 it is said that the Appellant's Advocate was under home quarantine and could not appear. We will give the Appellant the benefit of doubt. We restore the Appeal. This is of course subject to all contentions being kept open including as to maintainability because it is an Appeal from an order in a Chamber Summons in a Commercial Suit. Section 13 of the Commercial Courts Act 2016 will undoubtedly apply.

3. We also make it clear that if the Appellant is absent or not represented on one single day hereafter, we will straightaway dismiss the Appeal and will not allow it to restore thereafter for any reason or under any circumstances, whether or not the Advocate is well or unwell. To ensure that there is enough time for everybody to be prepared and, if necessary, make alternate arrangements, list the Appeal itself on 23rd August 2022 on the daily board.

4. The Interim Application is disposed of in these terms. There will be no order as to costs.

(Gauri Godse, J)

(G. S. Patel, J)