

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**INTERIM APPLICATION NO.3295 OF 2022
IN
COMMERCIAL SUIT (L) NO.10310 OF 2021**

Ariha Spaces LLP

Through Its Partners

...Applicants/Plaintiffs

Versus

Dharmendra D. Kapoor & Ors.

...Defendants

Mr. Kayval Shah a/w Mr. Anuj Kathed for Applicants/Plaintiffs.

Mr. Sarjukta Dey a/w. Mr. Saiprasad Hole, Ms. Shalini Dey i/by
Yende Legal Associates for Defendant Nos.1 to 3.

CORAM : R. I. CHAGLA, J.

DATED : 25th AUGUST, 2022.

P.C.

1. Heard learned counsel for the Applicants/Plaintiffs.
2. By this Interim Application, the Applicants/Plaintiffs are seeking restoration of the captioned Commercial Suit (L) No.10310 of 2021 to file as well as the Interim Applications file therein and the interim orders passed.
3. The Applicants/Plaintiffs had stated that after filing of

the captioned Commercial Suit, the Interim Application (L) No.10313 of 2021 had been taken out and which came up on various dates i.e. on 28th April 2021, 5th May 2021, 18th June 2021 and 29th September 2021.

4. This Court had recorded the statement of the learned counsel for the parties that they are agreeable to the ad-interim arrangement without prejudice to their rights and contentions. The ad-interim arrangement was communicated between the parties and in view thereof, the ad-interim arrangement agreed upon between the parties was continued. By the order dated 29th September 2021, this Court had directed the Interim Application (L) No.10313 of 2021 to be heard finally. It was recorded in the said order that in view of the ad-interim arrangement between the parties which was continued from time to time, there is no question of ad-interim relief now.

5. The Applicants/Plaintiffs have stated that they had requested their clerk to take necessary steps for removing of office objections and for lodging of writ of summons and at that point of time, the Applicants/Plaintiffs realized that the department had dismissed the Suit for non-removal of office objections as per the

notice of this Court dated 6th May 2022 and which was dismissed on 13th June 2022. The non-removal of office objections by the Advocate on record and registered clerk within the stipulated period was inadvertently missed. Accordingly, the present Interim Application has been filed.

6. Having considered the averments in the Interim Application as well as the submission of the learned counsel for the parties, it does appear that the Interim Application (L) No.10310 of 2021 was filed and which appeared on the aforementioned dates and an ad-interim arrangement was arrived at between the parties as recorded by this Court and which had been continued. The Interim Application was thereafter placed for final hearing vide order dated 29th September 2021. The reason for non-removal of office objections was that the Advocate for the Applicants/Plaintiffs had missed removing the office objections within the stipulated period and by virtue of notice issued by this Court on 6th May 2022, the captioned Commercial Suit came to be rejected on 13th June 2022.

7. Considering that there has been a default on the part of the Advocates for the Applicants/Plaintiffs, the Applicants/Plaintiffs should not be made to suffer on that ground and in view thereof, the

captioned Commercial Suit requires to be restored by recall of the order dated 13th June 2022. Further, the Interim Application (L) No.10313 of 2021 would stand restored upon restoration of the captioned Commercial Suit. Hence, the following order is passed:-

- (i). The captioned Commercial Suit (L) No.10310 of 2021 and Interim Application (L) No.10313 of 2021 is restored to file by recall of the order dated 13th June 2022.
- (ii). The Applicants/Plaintiffs are granted three weeks from the date of this order for removal of office objections. It is made clear that in the event, the office objections are not removed within the stipulated period of time, the captioned Commercial Suit as well as the Interim Application shall stand rejected without further reference to the Court.
- (iii). The Interim Application is disposed of in the above terms.

(R. I. CHAGLA, J.)