

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 12751 OF 2023
IN
APPEAL FROM ORDER NO. 3 OF 2014

Palghat Raman Rajan

...Applicant

V/s.

Shrinivasan Mohan and Ors.

....Respondents

Mr. Avadhesh Kumar, for the Applicant.

CORAM : SANDEEP V. MARNE, J.

Dated : 9 November 2023.

P.C. :

1. Interim Application is filed seeking restoration of the Appeal which is dismissed for default by order dated 11 January 2023. Respondent No.1 has been served with the notice in the Interim Application. However, none appears on behalf of Respondent No.1.
2. This is third occasion when the proceedings filed by the Appellant/Plaintiff have been dismissed for default. Plaintiff's suit was dismissed for default on 12 May 2009 and the City Civil Court has refused to restore it vide order dated 5 April 2013. The Appeal is filed challenging the order dated 5 April 2013. However, the present Appeal

came to be dismissed for default by order dated 12 December 2013. The Appellant-Plaintiff therefore took out Civil Application No.90 of 2022 which came to be allowed and the Appeal was restored vide order dated 5 December 2022. Again when the Appeal came up before this Court on 11 January 2023, none appeared on behalf of the Appeal and the Appeal got dismissed for default.

3. Mr. Saxena, the learned counsel appearing for the Appellant has invited my attention to the cause list for 11 January 2023 which reflected the name of 'Advocate Mr. Ravi D. Talreja'. He would submit that his name was not reflected in the cause list on account of which he could not remain present when the Appeal was called out on 11 January 2023. Considering the cause shown in the application, the Appeal is restored by allowing the present application.

4. However, considering the fact that this is the third default on the part of the Appellant-Plaintiff, he shall pay costs of Rs.2,000/- to the High Court Legal Services Authority and produce receipt of payment before the Registry.

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SANDEEP V. MARNE, J.