

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

WRIT PETITION NO. 8348 OF 2017

M/s. Everest Agencies & Ors.

....Petitioners
(Orig.Defendants
No.1 and 2)

V/S

Isharat Rafique Sharif & Ors.

....Respondents
(Orig. Plaintiff/Orig.Defendants
no.3 and 4)

...

None for the Petitioners.

None for the Respondents.

CORAM: SANDEEP V. MARNE, J.

DATE : 16 JUNE 2023.

P.C.:

1. This petition was called out in the morning session when none appeared for the petitioner and the same was therefore passed over. Even on the second call in the afternoon session, none appears for the Petitioner.

2. No doubt, the petition has suddenly been listed today which could be a ground for non-appearance on the part of the learned Advocate for the Petitioner. However, perusal of the order impugned in

the present petition would show that Petitioner's Chamber Summons for recall of the witness was rejected by the City Civil Court by order dated 13 April 2017. The present petition is pending for the last six long years. It appeared on board on 20 September 2017 when Advocate for the Petitioners sought time. It again appeared on 26 September 2017 and was adjourned on the ground that there was no urgency in the matter. Thereafter, the petition has not been listed even once during the last six long years. No attempt is made by the learned Counsel for the Petitioners to circulate the petition.

3. Since the trial in the suit had already commenced and the prayer made by the Petitioners in the Chamber Summons was to recall D.W.2, the hearing of the suit must have progressed substantially and possibly the suit itself would have been decided by now.

4. The Writ Petition is accordingly dismissed for default. In the event, the cause in the petition survives, it will be open for the Petitioners to apply for restoration of the petition.

(SANDEEP V. MARNE, J.)