

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

WRIT PETITION NO.5461 OF 2023

Jaikishan Maniklal Faft

... Petitioner

V/s.

Manager, State Bank of India, Nagpur and anr. ... Respondents

Mr.Niranjan Bhavake, Advocate for the Petitioner.

Mr.Saurabh Utangale i/by M/s Utangale & Co., Advocate for Respondent No.1.

None for Respondent No.2.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 17 APRIL 2023.**

P.C.:-

1. Heard the learned counsel for the parties.
2. The Petitioner has challenged the order passed by the Debt Recovery Appellate Tribunal ("DRAT" for short) dated 25 April 2019 dismissing the two-interim application and the appeal filed for non-prosecution. The impugned order states that the Respondent No. 2 was

not served and the Petitioner did not take any effort to serve Respondent No.2 and presuming that Petitioner has lost interest for proceeding with the matter, the application was dismissed for non-prosecution.

3. Considering the fact that the appeal and the application are dismissed for non-prosecution and not on merits, we find it appropriate that first an application for restoration of appeal/application be made to the DRAT. Granting liberty to Petitioner to do so, if the same is filed within 30 days, we dispose of the petition.

4. We also grant liberty to the Petitioner to serve copy of the restoration application to the Advocate representing the Respondents in this petition, in addition.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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