

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

**INTERIM APPLICATION NO. 20233 OF 2022
IN
APPEAL FROM ORDER(ST) NO. 26251 OF 2015**

Siddhi Vinayak Enterprise	...Applicant
Versus	
Jyoti Rajinder Wij and Ors.	...Respondents

...

Mr. Sanjay Kulkarni, for Applicant.
None for Respondent.

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CORAM : SANDEEP V. MARNE, J.
DATE : SEPTEMBER 27, 2023.

P.C.:

1. The Interim Application is filed seeking restoration of the Appeal which is dismissed for default on 6 January 2020. The learned counsel for the Appellant would submit that the Respondent No.1 is the main contesting party. Notice in the present Interim Application has been served on Respondent No.1. However, none appears on behalf of Respondent No.1. It appears that the present Appeal was earlier dismissed for default on 22 March 2019 and came to be restored by order dated 26 July 2019. The appeal is once again dismissed for default on 6 January 2020.

2. The learned counsel appearing for the Appellant would invite my attention to order dated 7 September 2021 passed in Appeal from Order No.959 of 2019 challenging the same order which is subject matter of challenge in the present Appeal. He would submit that on account of order dated 7 September 2021, the proceedings in the suit have been stayed.
3. Considering the above, one more opportunity can be granted to the Appellant by restoring the Appeal. However, the same cannot be without imposing costs. Interim Application is allowed. Accordingly, the Appeal from Order as well as Civil Application No.1369 of 2015 shall stand restored.
4. Appellant to pay cost of Rs.25,000/- to Kirtikar Law Library, High Court, Mumbai within a period of four weeks from today.

(SANDEEP V. MARNE, J.)