

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.376 OF 2017
IN
CHAMBER ORDER NO.521 OF 2015
IN
SUIT (L) NO.864 F 2014**

Hasmukh N. Malkan ... Plaintiff
versus
Manish Dinesh Shah and Ors. ... Defendants

Mr. Deepak Shukla i/by Vinod Mistry and Co., for Plaintiff.
None for Defendants.

CORAM : N.J.JAMADAR, J.

DATE : 31 JANUARY 2023

P.C.

1. Heard the learned Counsel for the Plaintiff.
2. The learned Counsel for the Applicant / Plaintiff submits that Defendant Nos.1 to 4 have been served. The learned Counsel seeks leave to tender Affidavit of Service.
3. Leave granted.
4. Affidavit of Service is taken on record.
5. In the Affidavit, it is affirmed that the notices were duly served on Defendant Nos.1 to 4. None appears for Defendant Nos.1 to 4.
6. The Notice of Motion is taken out to set aside the order passed by this Court in Chamber Order No.521 of 2015 dated 10 October 2016, whereby the

Chamber Order came to be rejected. The Applicant / Plaintiff had taken out Chamber Order to set aside the order dated 25 November 2014 rejecting the suit under Order 986 of the Bombay High Court (Original Side) Rules, 1980 on account of non-removal of office objections.

7. It seems that none appeared for the Applicant on 10 October 2016 and therefore, the Chamber Order came to be rejected.

8. In paragraph Nos.4 to 6 of the Affidavit in support of the Notice of Motion, the Applicant has ascribed justifiable reasons. To advance the cause of substantive justice, the order dated 10 October 2016 in Chamber Order No.521 of 2015 and also the order dated 25 November 2014 rejecting the suit under Order 986 of the Rules, stand set aside, subject to the Applicant removing the office objections within a period of four weeks. If the objections are not removed within the aforesaid period, this order would stand recall without further reference to the Court.

9. The Notice of Motion and Chamber Order stand disposed.

(N.J.JAMADAR, J.)