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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE ROOPESH CHANDRA VARSHNEY**

ON THE 5th OF JANUARY, 2024

MISC. CIVIL CASE No. 947 of 2021

BETWEEN:-

**RAHUL JATAV S/O SHRI VEERU JATAV, AGED 18 YEARS,
OCCUPATION: PVT. JOB R/O VILL. DURSEDI P.S.
GHATIGAON DISTRICT GWALIOR (MADHYA PRADESH)**

.....APPLICANT

(BY SHRI H.K. GOYAL - ADVOCATE)

AND

- 1. KALLA @ BALRAM LODHI S/O SHRI NIWAS
LODHI R/O RITHAURA KALA P.S RITHAURA
DISTRICT MORENA (MADHYA PRADESH)**
- 2. SAURABH GUPTA S/O SHRINIWAS GUPTA R/O 812,
ANAND NAGAR, P.S. BAHODAPUR, GWALIOR
(MADHYA PRADESH)**
- 3. THE NEW INDIA ASSURANCE COMPANY LTD.
OFFICE AT RAVI NAGAR, INFRONT OF GDA
OFFICE, PHOOLBAGH ROAD, LASHKAR GWALIOR
THROUGH DIVISIONAL — MANAGER (MADHYA
PRADESH)**

.....RESPONDENTS

(BY SHRI A.K.AGRAWAL - ADVOCATE FOR RESPONDENT NO.3)

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*This application coming on for hearing this day, the court passed the
following:*

ORDER

Heard on I.A. No.4200/2021, an application under Section 5 of
Limitation Act for condonation of delay.

It is submitted that there is a delay of about 2 years in filing the present

application.

For the reasons stated in the application, same is allowed and delay is hereby condoned.

Heard on the main application.

This is an application for restoration of M.A.No.1541/2019, which stood dismissed by order of the Principal Registrar dated 03/07/2019 for non-compliance of common conditional peremptory order dated 17/05/2019.

By the order dated 17/05/2019, applicant was granted six weeks' time to remove default, however, since defaults could not be removed within stipulated period, the appeal stood dismissed.

It is the submission of learned counsel for the applicant that since applicant could not contact his counsel, therefore, the defaults pointed out by the Registry could not be removed in time and when he came to know about dismissal of the appeal, instant application for restoration is drafted and filed. The aforesaid reason for not complying the Court's order is genuine and bona fide and for the mistake of counsel, party may not be made to suffer.

For the reasons assigned in the application, which is supported by an affidavit, sufficient cause is made out for restoration of M.A.No.1541/2019. Hence, the application is allowed and M.A.No.1541/2019 is restored to its original number however, it is made clear that the period during which the M.A.No.1541/2019 remained dismissed in default, shall not be counted for the purpose of interest.

As per undertaking given, learned counsel for the applicant shall cure the default pointed out in M.A.No.1541/2019 within 15 days from the date of its restoration.

A copy of this order be placed in the record of M.A.No. 1541/2019.

(ROOPESH CHANDRA VARSHNEY)
JUDGE

Adnan

