



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1985 OF 2024
IN
WRIT PETITION NO.12442 OF 2018.

Mr. Nilesh Kanabar

...Applicant-Petitioner.

Versus

Mr. Hemal Vyas and Ors.

...Respondents.

Mr. N.N. Bhadrashetty i/b Mr. P. V. Malik and Mr. Vijay Chauhan for the Applicant-Petitioner.

Mr. Niraj B. for the Respondent Nos.9 and 10.

Mr. Y. D. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : 25 October, 2024.

P. C. :

1. Interim Application has been preferred seeking recall of the order dated 22nd January 2024 dismissing the petition for non prosecution and for stay of execution of the recovery certificate.
2. Learned counsel for Applicant submits that at present he is not pressing prayer Clause (b) as regards stay of the execution of the recovery certificate and is confining his relief only to restoration of Petition.
3. Learned counsel for Respondent Nos.9 and 10 opposes the said Application.

4. Perusal of the pleadings in the Application would indicate that it was default on the part of the advocate that the petition came to be dismissed for non prosecution. For the default on the part of advocate litigant shall not be made to suffer.
5. Considering that the petition is of the year 2018 and it was due to non appearance of the advocate on two dates that petition came to be dismissed, I am inclined to restore the petition.
6. Resultantly Interim Application is allowed in terms of prayer clause (a) . Writ Petition stands restored to file

[Sharmila U. Deshmukh, J.]