

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2083 OF 2025

M/s. K. T. Kubal & Co. Pvt. Ltd. through Director Shivjit N. Kubal	...Petitioner
<i>Versus</i>	
Jivraj Punamchand Patel	...Respondent

Mr. Shivam S. Gawde i/b. Mr. Harish R. Pawar, for the Petitioner.
Mr. Yogendra M. Kanchan, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED : 17th APRIL 2025

P. C.:

1. Heard Mr. Shivam Gawde, learned Counsel appearing for the Petitioner and Mr. Yogendra Kanchan, learned Counsel appearing for the Respondent.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of order dated 18th December 2024 passed by the learned Appellate Bench of the Small Causes Court, Mumbai in Marji Application No.205 of 2024. In the said Marji Application prayer is sought for setting aside common order dated 14th August 2024 passed below

Exhibit-1 and Exhibit-18 in Appeal No.12 of 2022, by which the said Appeal has been dismissed for non-prosecution and further prayer is made to restore the said Appeal to the file. Said Marji Application has been dismissed by the impugned order dated 18th December 2024.

3. It is the main contention of Mr. Shivam Gawde, learned Counsel appearing for the Petitioner that as concerned Advocate was facing certain health issues, he could not remain present and therefore, Appeal has been dismissed for non-prosecution by order dated 14th August 2024.

4. Although, Mr. Yogendra Kanchan, learned Counsel appearing for the Respondent initially opposed the prayer in the Writ Petition, however, thereafter took instructions and on instructions of the Respondent, fairly states that by consent the impugned order be set aside and the said Appeal be restored to the file, as the reasons given are concerning ill-health of the Advocate.

5. Accordingly, by consent of the parties, the impugned order dated 18th December 2024 passed by the learned Appellate Bench

of the Small Causes Court, Mumbai in Marji Application No.205 of 2024 is quashed and set aside and the said Marji Application No.205 of 2024 is allowed in terms of prayer clauses (A) and (B), on the condition that the Petitioner shall pay cost of Rs.50,000/- to the Respondent within a period of two weeks from today.

6. Both the parties to remain present before the concerned learned Appellate Bench of the Small Causes Court, Mumbai on 10th June 2025 for fixing the schedule of hearing of said Appeal No.12 of 2022.

7. In the peculiar facts and circumstances of this case, as the said Appeal could not be heard finally due to the ill-health of the Advocate appearing for the Petitioner/Appellant, the learned Appellate Bench of the Small Causes Court, Mumbai is requested to dispose of the said Appeal No.12 of 2022 on or before 31st October 2025.

[MADHAV J. JAMDAR, J.]

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