

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2478 OF 2025
IN
COMMERCIAL SUIT (L) NO. 30491 OF 2023

Karma Management Global Consulting Solutions Pvt Ltd. ... Applicant

In the matter between

Karma Management Global Consulting Solutions Pvt Ltd. ... Plaintiff

Versus

Ananth Srinivasan & Anr. ... Defendants

.....

Mr. Jayesh Mestry for the Applicant/Plaintiff.
Mr. Mayank Arora (through VC) a/w. Mr. Abhinav Agarwal and Mr. Sarthak Rui for Defendant No.2.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATED : 26th AUGUST, 2025.

P.C. :

1. By this application, the applicant is seeking restoration of the Commercial Suit which is dismissed for non-removal of office objections. Learned counsel for the plaintiff submits that after the suit was filed, it was diligently prosecuted and by an order dated 11.12.2023 passed by this Court, notices were issued in the Commercial Suit. Thereafter although certain office objections were notified, counsel, who was attending the matter at the relevant time, failed to remove the office objections and the earlier counsel failed to take note of the general notices published in August 2024 and October 2024. It is submitted that on account of

miscommunication of the applicant with the earlier counsel and certain health issues as demonstrated by the earlier counsel, the office objections remained to be removed and ultimately the Commercial Suit came to be dismissed in default. Learned counsel for the plaintiff submits that the plaintiff desires to contest the suit on merits and is ready to remove the office objections and, therefore, seeks restoration of the Commercial Suit. It is also pointed out that there is delay of 138 days in filing the application for restoration and state that the delay occurred on account of procedural formalities required in filing the application and the delay is unintentional.

2. Learned counsel for the defendant strongly opposes the application and primarily submits that the application for restoration is not maintainable as the same ought to have been filed before the Prothonotary and Senior Master of this Court for restoration of the suit. In support of his submissions, he relies upon the Full Bench Judgment in the matter of **Prem Siddha Co-Op. Housing Society & Anr. Vs. High Power Committee-II & Ors.** reported in 2016 SCC OnLine Bom 5354. He also submits that although the reason for dismissal in default is mentioned as lack of diligence on the part of the earlier counsel, however, details of the earlier counsel and the action initiated against the said counsel are not mentioned.

3. As regards the objection about maintainability of this application before this Court, learned counsel for the applicant relies on an order of Co-ordinate Bench of this Court dated 01.07.2024 in Suit (L) No. 13791 of

2023 by which the similar objection about maintainability of the application before this Court in view of judgment of Full Bench in the matter of **Prem Siddha Co-Op. Housing Society** (supra) was considered. While considering the Judgment of Full Bench, it is observed that this Court is not denuded of its powers in appropriate case to grant an application for restoration of suit. In view of this position of law, I am of the considered view that the application for restoration can be considered by this Court.

4. Having regard to the reasons mentioned in the Interim Application, I find that the plaintiff need not be required to suffer for the fault of the advocate. It is also desirable that the suit is decided on merits and therefore the Commercial Suit need to be restored. However, since the defendant was required to contest this application for restoration, he may be compensated by awarding costs.

5. Hence, the interim application for restoration is allowed by condoning the delay subject to costs of Rs.10,000/- to be paid by the plaintiff to the defendant within a period of three weeks from today. The plaintiff is directed to remove the office objections within a period of three weeks from today. The Commercial Suit stands restored to file.

6. Interim Application stands disposed of.

(PRAFULLA S. KHUBALKAR, J.)