

Order Below Application Exh. 1.

Ld. Advocate for The Applicant :- Mr. B. J. Gohel.

Ld. Advocate for The Opponent :- No one appeared.

1. The present application has been preferred by the applicant against the opponent inter alia praying for restoration of the original suit no. 696/2016, which was dismissed, for her default, on 15.12.2021 and the present application has been filed within the period of limitation. The applicant has further contended that, the suit was filed by the applicant against the opponent inter alia praying for directing the opponent to execute a registered sale deed in favour of the applicant. The applicant further contended that, the opponent has received the entire sale consideration, still however, the opponent has not been executing the registered sale deed and therefore, the suit is filed to obtained the said relief against him. The applicant is poor lady and she is also a widow and unaware of the law. The opponent has appeared in the suit and has filed his written statement. Thereafter, the suit was posted for leading evidence after framing issues. The applicant had contacted her advocate about the case, who had informed her that, as when need arise for her presence, she would be informed. Thereafter, due to spread of Corona virus, she was also informed that, as when her presence is required, she would be informed. On 15.12.2001, she was not informed about the date and also, she was not well and therefore, also she was not appeared nor any representation was made on her behalf by her advocate as he was busy in another case.

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Thus, on the same day, the suit was dismissed for her default, which came to her knowledge on next day through her advocate and therefore, within time and after obtaining necessary certify copies of the documents, the present application is filed and hence, prayed for the grant of the relief as prayed for.

2. The notice was issued to the opponent, which was duly served upon him. However, neither the opponent nor Ld. Advocate for the opponent has appeared before this court, and hence, the right of the opponent to file reply was closed by this court on 06/07/2022.
3. Thereafter, the Ld. Advocate for the applicant has made his oral submissions by reiterating the contentions of the application and documents and prayed for grant of the application under consideration. No one appeared for the opponent and therefore, the application is taken for order on its merits
4. I have carefully gone through the contentions raised by the applicant in this application as well as the record of the case. It is imperative to note that, the opponent has not appeared before this court and has not challenged the contentions raised by the applicant in the application. Secondly, the applicant has also filed medical certificate issued by Dr. Suresh Shah to established the fact that, she was not well on the given date, which is also not challenged. Further, it is also not in disputed that, the applicant is an old lady and she is a widow. Further, the applicant has filed the present application within the time period. Further, if this application is rejected then she would lost her valuable right as asserted by her in

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the application and if the application is granted then no adverse effect would be caused to the opponent but, the suit would be disposed of on its merits. Thus, considering the above stated factual aspect of the case on hand, with all surrounding attending circumstances and settled legal proposition in respect to grant or refusal of the restoration application along with the fact that, the opponent has not defended the contentions raised by the applicant, and therefore, by considering the reasons stated in the application of the applicant, it would be appropriate to take liberal and pragmatic view as the applicant has given sufficient reason for her non appearance and therefore, this court is of the view that the suit is required to be restored by imposing suitable costs on the applicant and thus, in the interest of justice following order is passed.

-:::ORDER:::-

1. The application exh. 1 filed by the applicant for restoration of Civil Suit no. 696/2016 is hereby allowed subject to the applicant paying Rs. 500/- with the Registry of Legal Service Committee, City Civil Court, Ahmedabad, within 15 days from the date of this order.
2. The Registry of this court is directed to restore the Civil Suit no. 696/2016 to its original file from the stage it was dismissed, only after the applicant compliance the aforesaid order.
3. The applicant / her Ld. Advocate are directed to remain present on each and every date of hearing of the Civil Suit no.696/2016.

Order passed and pronounced in the open court on this 18th Day of July, 2022.

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