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

**INTERIM APPLICATION NO. 1 OF 2020
IN
WRIT PETITION NO. 1250 OF 2013**

Sharma Realtors Pvt. Ltd. ...Applicant/Petitioner
vs
Deputy Director of Land Records Konkan
Pradesh and Ors. ...Respondents

.....
Mr Kunal Mehta, Adv. Sagar i/b Pravin V. Kamble for the Applicant/
Petitioner
Ms Rajani Iyer, Sr. Counsel a/w Mr. Rubin Vakil, Mr. Paresh Shah,
Pooja Bhatia, Ms. Leena Mirasee i/b Shah and Sanghvi for
Respondent Nos.4 and 5.
Ms. Geeta Shastri, Addl. G.P. for Respondent Nos.1 to 3.
.....

**CORAM : B. P. COLABAWALLA, J.
9th MARCH 2020.**

P.C. :

By this Interim Application, the applicant/petitioner seeks to recall and set aside the order dated 27th February, 2020 passed by this Court in the above Writ Petition under which the Writ Petition was dismissed for want of prosecution.

2. Originally this Writ Petition was admitted by an order dated 25th July, 2013 and the interim protection granted on 3rd October, 2012 was to continue till the hearing and final disposal of the

Writ Petition. Thereafter, the matter appeared for hearing and final disposal on 11th April, 2019 when none appeared on behalf of the petitioner. In these circumstances, the matter was stood over to 25th April, 2019 as a last chance. Thereafter, it appears that the matter again reached on 30th January, 2020. On this date also none appeared on behalf of the petitioner. Therefore, this Court placed the matter for dismissal on 27th February, 2020. On 27th February, 2020 again none appeared on behalf of the petitioner, and therefore, the Writ Petition was dismissed for want of prosecution. After the same was dismissed, the present Interim Application has been lodged on the very next date, namely, 28th February, 2020.

3 I have heard the learned counsel appearing on behalf of the applicant/petitioner as well as the learned senior counsel appearing on behalf of respondent Nos.4 and 5, as well as the learned A.G.P. appearing for respondent Nos.1 to 3. As mentioned earlier, on prior two occasions also the petitioner had not appeared. It is only when the petitioner did not appear on the third occasion, namely, 27th February, 2020 that this Court was constrained to dismiss the above Writ Petition for want of prosecution. The learned advocate appearing on behalf of the applicant/ petitioner submitted that there was no willful default on the part of the advocate of the applicant/

petitioner to appear in the matter and for the non appearance on behalf of the applicant/ petitioner on all three occasions, the applicant / petitioner is willing to pay the costs of Rs.2 lacs to any charity nominated by this Court. He submitted that the issues involved in the Writ Petition are of vital importance to the applicant/ petitioner and grave irreparable loss shall be caused to the applicant/ petitioner if the Writ Petition is not restored to file. He, therefore, submitted that the Interim Application be allowed and the order dated 27th February, 2020 be recalled and set aside, subject to costs as agreed earlier.

4 Considering the fair stand taken by the applicant/ petitioner, I pass the following order.

(i) The Interim Application is allowed in terms of prayer clause (a) which reads thus :

(a) *that the order dated 27.02.2020 passed by Hon'ble Lordship Justice N.J.Jamadar **EXHIBIT "A"** may be recalled and Writ Petition No.1250 of 2020, along with ad-interim order dated 25.07.2013 may be restored to its original file for final hearing on its own merits."*

(ii) As per the statement of the applicant/ petitioner, the Interim Application is allowed as mentioned above subject to payment of costs of Rs.2 Lacs (Rs. Two Lakhs) to Tata Memorial Center, Parel, Mumbai (to be used for research) within a period of three weeks from today and a receipt evidencing payment of costs to be filed on record of this Court.

(iii) Needless to clarify that if the costs are not paid within the time stipulated, the above Interim Application shall stand dismissed without further reference to this Court. In the event the costs are paid, the Writ Petition No. 1250 of 2013 shall stand restored to file. The interim orders passed earlier shall continue till the hearing and final disposal of the Writ Petition.

5 In the event the Writ Petition is restored as mentioned above, it is fixed for hearing and final disposal on 16th April, 2020.

(B. P. COLABAWALLA, J.)