



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 134 OF 2023
IN
WRIT PETITION NO. 15207 OF 2022**

Salisbury Park Residents Forum Thr. ...Applicant
Auhtorised Faizal Poonawala

IN THE MATTER BETWEEN

Salisbury Park Residents Forum Thr. ...Petitioner
Auhtorised Faizal Poonawala

Versus

Pune Municipal Corporation And Ors ...Respondents

***Mr. Harshwardhan Bhende a/w Pradnya Karandikar
i/by Reguls Advocates & Consultants, Advocates for
Applicant/Petitioner.***

***Adv. Sweta Shah i/by Abhijit P. Kulkarni, Advocates for
Respondent Nos. 1 & 2/PMC.***

***Adv. Pralhad Paranjape a/w. Adv. Rahul Punjabi,
Advoces for the Respondent No. 4.***

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : OCTOBER 25, 2023

P. C.

1. The above Interim Application is filed to restore the Civil Writ
Petition No. 15207 of 2022 which was dismissed as withdrawn by Order

dated 9th December, 2022. Since the said order was passed by a bench, of which one of us (M.M. Sathaye, J) was a party, an order was passed on 3rd July 2023 in present Interim Application by the Regular Bench that it must be placed before the Bench comprising one of us (M.M. Sathaye, J) and that is how the present Application is listed before us.

2. The learned Advocate appearing on behalf of the Applicant submitted that the above Writ Petition was mentioned on 7th December, 2022 seeking circulation. The praecipe by mistake, instead of asking for circulation, stated that the matter be kept on board for withdrawal. Accordingly the matter was listed on board on 9th December, 2022 under the heading for 'Withdrawal' at Sr. No. 902 on the supplementary board. However since the name of the advocate for the Petitioner was wrongly mentioned on the board, the Petitioner's advocate was unaware that the matter had come on 9th December, 2022. On said date, the Court, in the absence of the Advocate for the Petitioner, passed the order dismissing the above Writ Petition as withdrawn on the basis of statement in the praecipe. It is only when he moved a fresh praecipe for circulation on 12th December, 2022 is when he came to know that the above Writ Petition stood withdrawn because of the mistake in the praecipe dated 7th December, 2022. He submitted that this was a mistake on the part of the Advocates on record and the Applicant ought

not be penalized for this error. In these circumstances, he prayed that the Order dated 9th December, 2022 (dismissing the above Writ Petition as withdrawn) be recalled.

3. We have heard the learned counsel appearing on behalf of the Applicant and the Respondents. We have also perused the papers and proceedings in the above Interim Application. We find that there is substance in what is stated by the Applicant in the above Interim Application. When the above Writ Petition was dismissed as withdrawn, the Petitioner had not appeared because the name of his Advocate was wrongly mentioned on the board. If the name was correctly mentioned, the advocate might have been in a position to point out the error in the praecipe and the Order may not have ensued.

4. In these circumstances, we find that a case is made out for restoration in the above Writ Petition. Accordingly, the above Interim Application is allowed in terms of prayer clause “a” which reads thus:

“a) the Hon’ble Court be pleased to restore Civil Writ Petition No. 15207 of 2022.”

5. Interim Application is accordingly disposed of. No Order as to costs.

6. Considering that the subject matter of the above Writ Petition is

not our assignment, the Registry is directed now to place the above Writ Petition before the appropriate Bench.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]