

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 633 OF 2024
IN
WRIT PETITION NO. 376 OF 2017

Harsha K Shah	...Applicant
<i>In the matter between</i>	
Harsha K Shah	...Petitioner
<i>Versus</i>	
Municipal Corporation of Greater Mumbai & Ors	...Respondents

Mr Sushant D Chavan, for the Applicant.
Mr Anil Sakhare, Senior Advocate, i/b Ritesh Singh, for Respondent
No 5.
Mr Kunal Waghmare, for the Respondent-MCGM.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 8th March 2024

PC:-

1. The Interim Application (“IA”) seeks a restoration of the Writ Petition. It was dismissed by a judicial order passed as long ago as 8th January 2018 by the Bench of AS Oka J (as he then was) and PN Deshmukh J. None appeared for the Petitioner in the morning

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session. It was kept back. Even on a second call nobody appeared. The Petition was thus dismissed.

2. As we have noted the dismissal order is of 8th January 2018. The restoration IA is filed only on 6th February 2024.

3. The reason given in the IA is wholly unsatisfactory. Paragraph 8 says again (as was said in another previous case, i.e., Interim Application No 632 of 2024 in Writ Petition No 299 of 2017) that on that date only one matter was listed, and therefore was not noted in the Advocates' diary. That is no excuse. The accuracy of advocates' case diaries is not a tenable reason once we have online digital systems, soft copies of daily cause lists, etc.

4. What is stated thereafter is even worse because the Applicant clearly states that the Applicant learnt about the dismissal of the Writ Petition on 5th February 2023. Yet, the Application is filed only one year later on 6th February 2024. Even if we assume that 2023 is a typographical error, there is no explanation at all for what the Petitioner did between 8th January 2018 and 5th February 2024.

5. There is no question of a bona fide mistake. The mistake of the Advocate is one thing. The complete dereliction by the Petitioner in being diligent in following up on the matter is wholly unexplained.

6. Municipal actions against structures cannot continuously be defeated like this.

7. The IA is rejected.

(Kamal Khata, J)

(G. S. Patel, J)