

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO.580 OF 2025****IN****WRIT PETITION NO.5053 OF 2005**

Shah Promoters & Developers and Ors.

... Applicants/Petitioners.

V/s.

The State of Maharashtra & Ors.

... Respondents.

Mr. Girish Godbole, Senior Counsel, i/by Mr. Sumit Kothari & Ms. Deepashikha Godbole for the Applicants/Petitioners.

Ms. Rupali Shinde, AGP, for the Respondent Nos.1 & 2-State.

Adv. Krushna Jaybhay i/by Mr. Abhijit Kulkarni for Respondent No.3-PMC.

Mr. Abhishek T. Ingle i/by Mr. M.L. Patil for Respondent No.9-APMC.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 5th May, 2025.

P.C.:-

1) Heard Mr. Godbole, the learned senior counsel for the Applicants, learned AGP for the State, Mr. Jaybhay, the learned Advocate for Respondent No.3 and Mr. Ingle for Respondent No.9.

2) Perused the record.

3) By this Application, the Applicants are seeking the relief of revival and restoration of the Writ Petition No.5053 of 2005 which has been disposed off as infructuous, on account of not having submitted a praecipe

as per the office note dated 2nd March 2021 by recalling Order dated 8th May 2021.

4) Perusal of Order dated 8th March 2021 indicates that, while disposing off the said Petition as infructuous this Court had observed that, “Accordingly, the petition is disposed of as infructuous; however, with liberty to the petitioners to revive the petition in case something survives.”

5) Mr. Godbole, learned senior counsel for the Applicants submitted that, as a matter of fact, the connected Petition bearing No.6785 of 2018 is still pending for final adjudication. That, it is the mistake on the part of the Advocate on record for the Petitioners as he did not submit necessary praecipe within the stipulated period to the concerned Court before 8th March 2021. By relying on the decision in the case of *Bhavnagar University v/s. Palitana Sugar Mill (P) Ltd.* reported in (2003) 2 SCC 111, he contends that, the reservation of the writ property had already lapsed as contemplated under Section 127 of MRTP Act and therefore the writ property cannot be re-reserved.

6) The afore-noted facts are admitted facts on record.

7) There is a delay of 1336 days in filing the present Application for recalling of Order dated 8th March 2021. Perusal of Application indicates that, sufficient cause is made out for condonation of the said delay. In view of the above, the Order dated 8th March 2021 is recalled and Petition No.5053 of 2005 is restored to file.

- 8) Application is accordingly allowed in terms of prayer clauses
(a) and (b).

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)