

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

INTERIM APPLICATION NO. 1319 OF 2025

IN

INTERIM APPLICATION NO. 1454 OF 2025

Amogh Enterprises

...Applicant/Plaintiff

Versus

Magathane Kinara Co-Op Hsg. Soc. Ltd.

...Defendant

Ms. Minal D. Patil i/b the Dutta Associates for Applicant/Plaintiff.

Mr. Vagish Mishra a/w Uttam Dubey, Varad Dubey, Rajuram Kuleriya, Emad Khan, Alex D souza, Sahil Upadhyay, Shivam Mishra i/b Law Counsellors for Defendant No.1.

Mr.Akhilesh Dubey a/w Abhishek Karnik i/b Bhushan Bankar for Defendant No.2.

Mr. Deepak Bhalerao, Second Assistant to Court Receiver, present.

CORAM : ARIF S. DOCTOR, J.

DATE : 1st OCTOBER 2025

P.C.

1. The present Interim Application seeks recall of an order dated 27th November 2024 passed by this Court. Shorn of unnecessary details, the basis on which recall of the orders is sought, is that the learned counsel appearing on behalf of the Applicant/Plaintiff on that date did not have the requisite

instructions to make the concession as recorded in the order of which recall is sought.

2. Mr. Dubey has today taken a very fair stand and has submitted that the order can be recalled. However, he submits that nothing now would really survive in the Interim Application.

3. Mr. Dubey submits that there is a previous order in which identical reliefs as of the present Interim Application has been sought for and that previous Notice of Motion had also been withdrawn by the Applicant/Plaintiff. Furthermore, he also submits that the building in question has already been redeveloped and Part Occupation Certificate has also been issued.

4. If this is indeed so, in my view, he is correct in his submission. However, for the reasons recorded above, and the extremely fair stand taken by learned counsel appearing on behalf of Defendant No.2, the Interim Application No. 1319 of 2025 is allowed in terms of prayer clause (a) and Interim Application (L) No.16937 of 2023 is restore to file of this Court.

5. Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)