IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

30 INTERIM APPLICATION NO. 375 OF 2026
IN
WRIT PETITION NO. 7036 OF 2010

BARTAKKE ELECTROFAB PVT. LTD.
VERSUS
MAHARASHTRA STATE ELECTRICITY BOARD (MSEB) AND ANR.
...
Advocate for Applicant : Mr. Kuldeep U Nikam a/w Adv. Pratik Patil
Advocate for Respondent No. 1 : Mr. Shoaib Faiyaz Shaikh i/by Mr. Mohansinh U. Rajput
...

CORAM : SHAILESH P. BRAHME, J.
DATE : 07.10.2026

PER COURT :

Heard.

2. The applicant seeks to recall order dated 28.04.2022.

3. Learned counsel for the applicant submits that Writ Petition was preferred challenging order passed below Exh. 43 in Special Darkhast No. 22/2003. Rule was granted on 05.04.2011 with interim relief. During passage of time, Darkhast proceedings were transferred and renumbered as Regular Darkhast No. 74/2012. The statement was made before the Court on 28.04.2022 that the execution proceedings were disposed of and the matter had become infructuous. Accordingly, order was passed.

4. It is submitted that inadvertent mistake is disclosed to the petitioner. Actually the proceedings are renumbered as Regular Darkhast No. 74/2012 and Special Darkhast No. 22/2003 was found to be disposed of, hence the statement was made. There are no *mala fides* and realizing that the proceedings are still pending, the application is moved.

5. Learned counsel appearing for respondent no. 1 Mr. Rajput has

vehemently submitted that advocate appearing for the applicant cannot maintain the application because he was not appearing in original proceeding. It is submitted that the allegations are made in the memo of application against the erstwhile lawyer without any basis. The submissions are unfounded. The applicant is not diligent, though its a company in Corporation. It is further submitted that the darkhast proceedings were transferred long back and the lawyer of the applicant participated before the Executing Court, still wrong statement was made. It is further submitted that Article 137 of the Limitation Act would be an impediment for entertaining the application.

6. I have considered the rival submissions of the parties. Admittedly, Special Darkhast No. 22/2003 was renumbered as Regular Darkhast No. 74/2012. Looking to the status as per original number it was gathered that execution proceeding was disposed of and the statement was made on 28.04.2022. The execution is still pending. I find substance in the contention of the learned counsel for the petitioner that the mistake is due to sheer inadvertence.

7. Nothing is pointed out that with an oblique motive the wrong statement was made by erstwhile lawyer and any undue advantage is taken. The mistake is *bona fide* one. I find that no allegations are made by present lawyer against the earlier lawyer. The plea on Article 137 of the Limitation Act has no merit as the proceedings are under Article 215 of the Constitution of India. I find that case is made out to exercise powers for recalling the order in question.

8. Interim Application is allowed in terms of prayer clause 'A'.

(SHAILESH P. BRAHME, J.)

mkd/-