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MCC-3613-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 10th OF OCTOBER, 2024MISC. CIVIL CASE No. 3613 of 2024*LAKHDATAR SMART BUILDS PVT. LTD.**Versus**UJJAIN MUNICIPAL CORPORATION AND OTHERS*

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Appearance:

Shri Aditya Choudhary - Advocate for the petitioner.

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ORDER

1 . This case has been listed today in terms of order passed in W.P. No.31481/2024 this morning. This application is filed for restoration of W.P. No.13036/2024 in which initially on 14.05.2024 an order was passed staying the operation of notice issued by Ujjain Municipal Corporation dated 8.5.2024 but subsequently when the matter was listed on 17.09.2024 it was observed by this Court that certain defaults remained to be cured in the matter which are in the matter of non-filing of legible copies of certain documents and another default was in the matter of incorrect particulars of parties. This Court in W.P. No.13036/2024 granted seven days' time to cure the defaults and passed a peremptory order that if the defaults are not cured within one week then the petition shall stand dismissed automatically without further reference to the Bench. When the defaults were not cured the petition has stood dismissed automatically without reference to the bench immediately on expiry of seven days from 17.09.2024.

2. It is contended by the learned counsel for the applicant that due to some confusion the counsel was under impression that the case has simply been adjourned because it was understood that since interim order was prevailing in the matter from 17.05.2024, therefore, the case has to be argued on merits as the reply of the respondent was also on record so also intervention application by some of



the party was also filed. Therefore, the counsel was under impression that the case has been adjourned for hearing on merits and due to some confusion or oversight the counsel could not be aware of the fact that this Court has granted seven days' time by way of peremptory order to cure the defaults. It is further contended that it was only when the Municipal Corporation Ujjain issued consequential notice dated 8.10.2024 intimating about dismissal of W.P. No.13036/2024 in terms of order dated 17.09.2024 then the counsel and the party came to know about the dismissal of the said writ petition in terms of peremptory order dated 17.09.2024.

3. In such facts, prayer is made for restoration of W.P. No.13036/2024. It is contended that the matter relates to demolition of top floor of the building and valuable rights to property of the petitioner are involved in the matter which should be decided on merits and it would not be in the interest of justice that such a petition be not restored after having been dismissed for technical default.

4. Accordingly, sufficient cause is made out for restoration of W.P. No.13036/2024.

5. Consequently, W.P. No.13036/2024 is restored to its original file subject to curing defaults therein by 15.10.2024. It is further made clear that the interim order dated 14.05.2024 passed in W.P. No.13036/2024 has been brought to life from today and the order dated 8.5.2024 (Annexure P/1) in the said writ petition shall remain stayed as ordered earlier in W.P. No.13036/2024. This would be subject to further orders to be passed in the said petition.

6. In the above terms, MCC is allowed and disposed of.

(VIVEK JAIN)
JUDGE