

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 730 OF 2015
IN
SECOND APPEAL NO.69 OF 2015
WITH
CIVIL APPLICATION NO. 150 OF 2015
IN
SECOND APPEAL NO.69 OF 2015**

1.Shri Prashant Prabhakat Pol ..Applicants
and Anr.

Vs

Smt. Nirmala Balwant Pol .. Respondent

Mr.Rahul P. Walvekar, Advocate for Applicants.

CORAM : R.G.KETKAR,J.

DATE : 28/04/2015

PC:

1. Heard Mr. Rahul Walvekar, learned counsel for the applicants.
2. By this Application, the applicants have prayed for recalling the order dated 2.3.2015. By that order, Second Appeal was dismissed in default as Advocate for the applicants remained absent.
3. Mr.Walvekar submitted that notice was not issued to the respondent. He submitted that in pursuance of the decree, decree-holder has filed Darkhast and Executing Court has issued warrant of possession for handing over possession. He states that the applicants are in possession and they have

neither created third party interest nor parted with possession. Statement made by Mr. Walvekar, on instructions, are recorded.

4. In view thereof and for the reasons stated in the Application, Civil Application is allowed in terms of prayer clause (b) with no order as to costs.

5. Second Appeal is restored to its original number and position. List the Appeal for admission on 16.6.2015.

6. In the meantime, subject to the applicants neither creating third party interest nor parting with possession, there shall be ad-interim order in terms of prayer clause (b) of Civil Application No.150 of 2015.

(R.G.KETKAR, J.)