

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

**CIVIL APPLICATION NO.2751 OF 2015
IN
WRIT PETITION NO.9229 OF 2015**

Madan Sadashiv Nirgude : Applicant.

In the matter of

Madan Sadashiv Nirgude : Petitioner.

Versus

**Devaji Buva Mandir Hazale Vaishnav
Sanstha and ors. : Respondents.**

Mr. Vilas B Tapkir for the Applicant.

**CORAM : R. M. SAVANT, J.
DATE : 09th October 2015**

P.C.

1 The above Civil Application has been filed for recall of the order dated 08/09/2015 passed in the above Writ Petition. According to the learned counsel for the Applicant/Petitioner the statement made by him which has been recorded in the said order is on account of the mis-communication between the Petitioner and him. It is the submission of the learned counsel for the Petitioner that though the Petitioner initially was satisfied with the statement which has been recorded in the said order, the Petitioner, who is a senior citizen being 76 years of age, thereafter requested the learned Advocate on record Shri Tapkir to file an application for recall of the said order. It was also the submission of the learned counsel for the Applicant/Petitioner that

since the order arises out of execution proceedings filed for execution of the decree passed by the Small Causes Court in terms of the extant roster the above Petition would not lie before this Court.

2 Having regard to the extant roster, the above Petition arising out of the order passed by the Small Causes Court would lie before a learned Single Judge taking up matters under the Rent Act and was erroneously placed before this Court, and this Court oblivious of the aforesaid fact disposed it of in view of the statement made by the learned counsel for the Petitioner. Hence for the reasons mentioned in the Civil Application as also having regard to the extant roster, the order dated 08/09/2015 is recalled and the above Petition is accordingly restored to file. On restoration, the learned counsel for the Petitioner may apply for circulation before the appropriate Court. The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed Order.