

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 4573 OF 2016
IN
MISC. CIVIL APPLICATION NO. 187 OF 2015**

Sharad Janardan Wable

..... **APPLICANT**

V E R S U S

Vandana w/o Sharad Wable
& Anr.

..... **RESPONDENTS**

.....

Mr. C.K.Shinde, Advocate for Applicant.

Mr. Milind Patil, Advocate for Respondent.

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CORAM : T.V.NALAWADE, J.

DATE : 16th APRIL, 2016

ORAL ORDER :-

. The application is filed for recalling the Order made by this Court on 21/03/2016 in M.C.A. No. 187 of 2015. The said application was filed for transfer of one Hindu marriage petition filed by THE wife against the husband. This Court allowed the application by observing that nobody had turned up for the husband at the time of hearing.

2. It is contended by the present applicant/husband that he had filed reply in the said proceeding but by mistake of the office, the reply was tagged in S.A. No. 504 of 2014. It is a fact that reply was tagged in the said matter. Copy of the Order dated 21/03/2016 is produced and it shows that Mr. C.K.Shinde, Advocate was present. The said order was also made by mistake as Mr. C.K.Shinde was not appearing in the said Second Appeal. It appears that due to tagging of said reply in the Second Appeal, the said order was made, but the order shows that Mr. C.K.Shinde was present in the Court. Ordinarily the reply ought to have been tagged in M.C.A. 187 of 2015 and appearance of Mr. C.K.Shinde ought to have been shown. This did not happen and that was the mistake. In view of the circumstance, the prayer is made to recall the order made in M.C.A. No. 187 of 2015 and re-hear the matter on merits.

3. The counsel for the respondent has strong objection. He submits that when M.C.A. No. 187 of 2015 was called, it was the duty of the counsel of the husband to remain present and argue the matter.

4. The aforesaid circumstances show that there was mistake of the office and due to that presence of Mr. C.K.Shinde was not marked. The Say filed by him was not considered. Due to these circumstances, this Court holds that the said order needs to be recalled. So, the application is allowed. Order made in M.C.A. No. 187 of 2015 is recalled. M.C.A. No. 187 of 2015 is restored to its original number.

5. List M.C.A. No. 187 of 2015 for hearing on 06/05/2016. Interim relief, if any, to continue till then.

[T.V.NALAWADE, J.]

KNP/C.A. 4573.2016 in M.C.A. 187.2015.odt