

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.581 OF 2014
IN
CRIMINAL WRIT PETITION NO.399 OF 2014**

Satymangal Shivalal Shah

..... Applicant

V/s

State of Maharashtra & Others

..... Respondents.

Mr. Surel Shah for the Applicant.

Mr. K.V. Saste, APP for the State.

**CORAM: V. M. KANADE, ACTING CHIEF JUSTICE &
SMT. ANUJA PRABHUDESSAI, J.**

**DATE: 15th January, 2016
(In Chamber at 2.35 P.M.)**

P.C.:-

1. Application is made for recalling the order dated 25/11/2014. The learned Counsel appearing on behalf of the Applicant submits that when the matter was called out, he was on his legs in another Court and the ex parte order was passed.

2. In our view, it is not necessary to recall the said order since the Applicant/Petitioner is seeking restoration of possession of the land on the ground that he was illegally

dispossessed. We have already stated that the relief of restoration of possession cannot be granted by this Court while exercising its writ jurisdiction. We have reserved the right of the Applicant/Petitioner to exhaust the alternative remedy which is available to him. It is an admitted position that the Applicant/Petitioner has filed a suit. Relief of restoration of possession also can be sought by the Petitioner in the said suit by seeking mandatory injunction for restoration of possession.

3. Trial Court before whom the suit is filed shall not be influenced by the order passed by this Court since it is not passed on merits. Trial Court shall pass an order on merits and in accordance with law. All contentions of the Petitioner are kept open.

4. Application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(ACTING CHIEF JUSTICE)