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

**WRIT PETITION NO. 8266 OF 2018
WITH
CIVIL APPLICATION NO. 2580 OF 2018
IN
WRIT PETITION NO. 8266 OF 2018**

Ashok Kishinchand Sadhwani**.....Petitioner****V/s.****Smt. Anjali Ashok Sadhwani****.....Respondent**

**Mr. Bhart Gandhi a/w Mr. Swapnil V. Newaskar for the Petitioner
Mr. Vicky Nagrani for respondent**

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 23, 2020.****P.C.**

The contention of the petitioner is, when the order dated 10/08/2017 was passed below Exhibit 13 in Regular Darkhast No. 127 of 2011 which has lead to passing an order under Order 21 Rule 33 of the Code of Civil Procedure, 1908 ('C.P.C.' for the sake of brevity), petitioner-husband was not served on a correct address and

as such, order prejudicial to the interest of the petitioner-husband came to be passed.

2] Learned counsel for the petitioner when confronted as to whether said provision of Order 21 of the C.P.C. contemplates a notice, he submits that it will be appropriate to grant him liberty to approach the same Court for recalling the order dated 10/08/2017 and he seeks liberty to withdraw the petition.

3] Petition stands dismissed as withdrawn with liberty to the petitioner to approach the Executing Court. The Executing Court shall deal with the prayer of the petitioner in the light of scheme of Order 21 Rule 33 of the C.P.C. including the one whether a notice before passing the order is contemplated?

4] As a consequence of dismissal of petition, pending Civil Application also stands disposed of.

[NITIN W. SAMBRE, J.]