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

**INTERIM APPLICATION NO.2633 OF 2022
IN
FIRST APPEAL NO.197 OF 2013**

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Jayant Shetty (since deceased)
through L.Rs. 1.1) Shobha Jayant
Shetty & Anr.

... Applicants

V/s.

Sairus Adi Printer & Ors.

... Respondents

Mr. Sanjeev Kadam with Babita P. Pandey for the
applicants.

Mr. V.S. Kapse with Mr. S.R. Bhalekar for respondent
nos.1 to 3.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 8, 2023

P.C.:

1. The applicants have filed present interim application seeking recall of order dated 4th October 2019 passed by this Court in Civil Application No.3991 of 2014 in First Appeal No.197 of 2013 on the basis of minutes of order filed by the parties.

2. According to the applicants they had not instructed nor signed on the minutes of order. The practice consistently followed in this Court is that the minutes of order are never signed by the parties. The consent terms are signed by the parties. The minutes of order are tendered across the bar for the benefit of the learned

Judge. The broad agreement between the parties is implicit in the minutes of order. Such minutes of order are prepared by the advocates on the basis of concession given by the parties and as per their instructions. It is well settled that the concession given by the advocate on facts is binding on the parties.

3. Apart from the above ground, the order sought to be recalled was passed on 4th October 2019. This interim application has been filed on **16th January 2021**. The delay in filing such application takes away the force of reason tried to be supplied by the applicants that they had not instructed the advocate for making such statement.

4. The proceedings of the Court are conducted on the basis of statements of the advocate. If statements of such nature are allowed to be withdrawn in casual manner, the sanctity of proceedings of Court would be at stake. Such a course can never be permitted, particularly on an application filed after the period of one (1) year.

5. In that view of the matter, the interim application cannot be entertained. The interim application is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)