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1-Pca7591.24

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

**1-P CIVIL APPLICATION NO.7591 OF 2024
IN FA/1505/2023**

**THE NEW INDIA ASSURANCE CO. LTD. THROUGH ITS
AUTHORIZED SIGNATORY
VS
VITTHAL SHRIPATI SANGALE AND ORS**

Mr. A. B. kadethankar, Advocate for the applicants
Mr. S.W. Munde, Advocate for respondent Nos. 1 and 2

CORAM : KISHORE C. SANT, J.

DATE : 18th OCTOBER, 2024

P. C.

1. The learned advocate for the applicant at the outset seeks leave to correct the date in the prayer clause-B and C. Leave granted.

2. Amendment be carried out forthwith.

3. Heard the parties.

4. This application is for re-call of the order dated 18-

06-2024 passed by this court in First Appeal No. 15050/2023 wherein this court, on submission of the learned advocate for the respondent-appellant, has passed the order.

5. The Insurance Company has filed this application stating that the submission which is recorded in the order dated 18-06-2024 on the basis of statement of the learned advocate for the appellant was not correct. The statement was that the claimants in the MACT are paid the amount as per the impugned judgment and award and therefore stay was sought.

6. It is brought to the notice of this court that in fact the appellant had not deposited any amount in the execution proceeding. It was the insurance company who had paid the amount to the claimants therein. The execution was filed by the insurance company against the owner of the vehicle. Since there was order of pay and recover this court had granted stay to the execution filed by the insurance company.

7. Now the respondent-owner has filed an affidavit and has tendered an apology. It is stated that the owner could not personally come to see the Advocate to give instructions while filing the appeal. It is, therefore, there was miscommunication and also averred that learned advocate had made such a statement because of miscommunication.

8. This court finds that apology can be accepted.

9. Looking to the peculiar facts, the civil application is allowed in terms of prayer clause-B.

10. The stay granted earlier by the said order stands vacated.

11. The application stands disposed off.

[KISHORE C. SANT, J.]