



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

**CIVIL APPLICATION (CAO) NO. 881 OF 2024
IN
MISC. CIVIL APPLICATION (ST) NO. 15957 OF 2023
IN
SECOND APPEAL NO. 353 OF 2017 (D)**

Vithal Shriram Aghav and others

Vs.

Rakhamabai Shriram Aghav and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N. D. Khamborkar, Advocate for appellants.
Shri B. N. Mohta, Advocate for respondent no. 2.

CORAM :- M. W. CHANDWANI, J.

DATED :- 06.08.2024

Heard.

2. By this application, the applicant/respondent no. 2 seeks recall of the order dated 18.07.2024 passed by this Court. The contention is that his name did not appear in the cause-list therefore, he could not appear on that day and he is shown as absent. The order of continuance of the interim order was passed in his absence.

3. It appears that due to mistake of the office, the name of the learned counsel for the applicant/respondent no. 2 did not appear in the cause-list and therefore, he could not remain present on that day.

4. Be that as it may, the order dated 18.07.2024 has not been passed only on the count that the learned counsel for the applicant/respondent no. 2 was absent. It appears from the record that after filing of the review application, there was interim order passed in favour of the appellants by this Court on 05.03.2024, which was extended vide order dated 19.03.2024. It is submitted on behalf of the learned counsel for the appellants that on 07.05.2024, he could not request the Court for continuance of the interim order therefore, the interim order could not be continued and on the next date i.e. on 18.07.2024, on his request, the aforesaid interim order came to be extended.

5. No doubt, the learned counsel for the applicant/respondent no.2 was not present at that time but, the fact remains here is that there was earlier interim order of stay by order dated 05.03.2024 to the effect and operation of execution of the decree therefore, I do not feel that recall of the order dated 18.07.2024 is required.

6. Hence, the application is disposed of accordingly.

7. Liberty is granted to Mr. Mohta, learned counsel for the applicant/respondent no. 2 to get the matter circulated. In the meantime, the stay order shall continue to operate till the next date of hearing.

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8. At this stage, the learned counsel for the parties submitted that the dispute is amongst brother and sister and there is element of settlement therefore, the matter may be referred for mediation.

9. Shri S. V. Purohit, learned counsel is appointed as Mediator in the matter.

10. The parties to appear before the learned Mediator on 12.08.2024, as per convenient time of the learned Mediator.

11. The learned Mediator shall file report within three weeks thereafter.

12. Stand over after four weeks.

(M. W. CHANDWANI, J.)