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

WRIT PETITION NO. 11734 OF 2018

Ashok Ganpat Shivdas

.. Petitioner

Versus

Sundarabai @ Rukmini Nivrutti
Shivadas (Since deceased), Deleted
Harichandra Nivruti Shivdas & Ors.

.. Respondents

Mr. Prabhanjan Gujar for petitioner.

CORAM: ALOK ARADHE, CJ.

DATE: 29th JULY, 2025

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ORAL ORDER:

1. In this writ petition filed under Article 227 of the Constitution of India, the petitioner has assailed the validity of the order dated 25th April, 2018 passed by the executing Court by which application seeking recalling of the order dated 13th March, 2007 has been allowed.

2. Facts giving rise to filing of the instant writ petition, in nutshell, are that the respondents/plaintiffs had filed Regular Civil Suit No. 587 of 1983 seeking relief of possession and mandatory injunction. The aforesaid civil suit was decreed vide judgment and decree dated 20th January 1992. The respondents/plaintiffs initiated execution proceeding seeking execution of the decree.

3. In the aforesaid execution proceeding, the petitioner/judgment debtor filed an application seeking re-

measurement of the property. The aforesaid application was allowed by the executing Court on 13th March, 2007. The respondents/plaintiffs filed an application seeking recall of the aforesaid order. The said application has been allowed by the executing court by an order dated 25th April, 2018, *inter alia*, on the ground that the petitioner/defendant is protracting the proceeding.

4. I have heard the learned counsel for the petitioner at length and perused the record. None has appeared on behalf of the respondents.

5. The executing Court has not assigned any valid and cogent reasons for recalling of the order dated 13th March, 2007 except by stating that the petitioner/judgment debtor is protracting the proceeding. The impugned order lacks application of mind and suffers from error apparent on the face of the record. It is accordingly quashed and set aside.

6. The writ petition is disposed of accordingly.

7. Let a copy of this order be forwarded to the Executing Court forthwith.

(CHIEF JUSTICE)