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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.630 OF 2015

Bharu Savitri Athare

PETITIONER

VERSUS

Ambadas Kesu Sase (Died) LRs & others

RESPONDENTS

.....

Mr. Santosh S. Jadhavar, Advocate for the petitioner

Mr. Rahul R. Karpe, Advocate for respondents No.1 to 4

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 28th SEPTEMBER, 2015

ORDER :

1. After hearing learned advocates for the petitioner and the respondents, situation emerges that application of the petitioner for withdrawal of the suit with permission to file a fresh suit has been rejected by the court by observing that withdrawal of suit to file a fresh one cannot be permitted, when equally efficacious remedy of amendment of plaint is available.

2. Going by observations in paragraph No.8 of the impugned order, it appears that doors on the petitioner appear to be closed, upon submissions of the defendants.

3. In the present case, it appears that after filing of the suit,

the plaintiff appears to have realized that incorporation of certain pleadings is necessary in the suit for getting effective adjudication of rights of the parties. If that be so, if it can be brought about by another efficacious remedy available by way of amendment, the consideration which has weighed with the trial court, observations in paragraph No.8 of the impugned order shall not preclude the petitioner from making a proper application and that be considered by the court upon its own merits, and the court shall not be swayed away by the observations under paragraph No.8 of the impugned order.

4. With aforesaid observations, writ petition stands disposed of.

[SUNIL P. DESHMUKH, J.]