

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9661 OF 2014
WITH
WRIT PETITION NO.11646 OF 2014
((KRUSHNAJI DEORAO GAWADE VS. SHAHAJI KONDIBA DANDE)

Mr.V.P.Latange, Advocate for the petitioner.
Mr.N.V.Gaware, Advocate for respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 05/01/2015

PER COURT :

1. Heard Mr.G.P.Latange, learned Advocate on behalf of the petitioner and Mr.N.V.Gaware, learned Advocate appearing on caveat for the sole respondent.
2. Learned Advocate for the petitioner, in the light of the submissions of the learned Advocate for the respondent as well as the observations of the Trial Court in the impugned orders passed in RCS No.39/2004 below Exh.87 and below Exh.95, seeks leave on instructions to withdraw these petitions so as to be able to file a fresh suit in relation to the cause of action of alleged encroachment by the respondent.
3. The respondent had opposed the applications Exh.87 and 95

on the ground that the alleged encroachment is a fresh cause of action and the petitioner can file a fresh suit. The observations of the Trial Court are that the petitioner can avail of the remedy of challenging the alleged encroachment and seeking recovery of possession, through a separate suit.

4. As such, leave to withdraw these petitions, is granted with liberty to file a fresh suit.

5. Both these petitions are therefore dismissed as withdrawn.

(RAVINDRA V. GHUGE, J.)