

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4033 OF 2015

Sanjay Hari Yevle and another ... Petitioners
Vs.
Ramlakhan Ramharak Mourya and others ... Respondents

Mr. Amey Deshpande for Petitioners.
Mr. Vaibhav Joglekar, Senior Advocate a/w. Mr. Yatin R. Shah, Mr. Rohan Sathay, Mr. Huzer Kazi and Ms Aditi Bhat for Respondent No.9.

CORAM : R. G. KETKAR, J.
DATE : DECEMBER 16, 2015

P.C. :

Heard Mr. Deshpande, learned Counsel for the petitioners and Mr. Joglekar, learned Counsel for respondent No.9.

2. By this Petition under Article 227 of the Constitution of India, petitioners - appellants have challenged the judgment and order dated 30.07.2014 passed by the learned Ad-hoc District Judge-1, Nashik below exhibit-4 in Civil Appeal No.3 of 2014. By that order, the learned District Judge rejected the application made by the petitioner No.1 for injunction restraining respondent No.9 in the appeal from creating third party interest on the basis of decree obtained in Special Civil Suit No.273 of 1992.

3. The impugned order is passed in the Appeal and having regard to Section 106 of the Code of Civil Procedure, 1908 (for short C.P.C.), petitioner has an equally efficacious alternate statutory remedy of filing Appeal from Order under Order 43, Rule 1(r) C.P.C.

4. In view thereof, Mr. Deshpande seeks permission to withdraw this Petition with liberty to file Appeal from Order.

5. On the motion made by Mr. Deshpande, Petition is allowed to be withdrawn with liberty as prayed for. It is made clear that I have not examined the merits of the case. All the contentions of the parties on merits are expressly kept open.

(R. G. KETKAR, J.)

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