

IN THE HIGH COURT OF JUDICATURE AT MUMBAI  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.3209 OF 2014

Major Bholanath Bharat Tiwari and others ... Petitioners  
Vs.  
Chandrakant Dattoba Bahirat and another ... Respondents

Mr. Uday B. Nighot for Petitioners.  
Mr. M. S. Ansari i/b. Mr. Harshad Bhadbhade for Respondents.

**CORAM : R. G. KETKAR, J.**  
**DATE : 10<sup>TH</sup> JULY, 2015**

**P.C. :**

Heard Mr. Nighot, learned Counsel for petitioners and Mr. Ansari, learned Counsel for respondents.

2. By this Petition under Article 227 of the Constitution of India, original defendants have challenged the judgment and order dated 21.10.2013 passed by the learned 14<sup>th</sup> Civil Judge, Junior Division, Pune below exhibit-5 in Regular Civil Suit No.1757 of 2013 as also the judgment and order dated 17.01.2014 passed by the learned Extra Joint Ad-hoc District Judge, Pune (2) in Miscellaneous Civil Appeal No.400 of 2013. By these orders, the Courts below allowed the application exhibit-5 filed by the respondents-plaintiffs for injunction restraining the petitioners from raising construction over the disputed passage.

3. After arguing the Petition for quite some time, Mr. Nighot, upon taking instructions from the petitioner No.1 – Major Bholanath B. Tiwari, who is present in the Court, seeks permission to withdraw this Petition with liberty to file Review Petition before the District Court seeking review of order dated 17.01.2014. He has tendered photocopy of the identity card of petitioner No.1. issued by Indian Arm Forces,

which is taken on record and marked 'X' for identification. Mr. Ansari submits that in case the petitioners are given liberty to file Review Petition, all the contentions of the respondents-plaintiffs may be kept open.

4. In view thereof, on the motion made by Mr. Nighot, Petition is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression of opinion on the merits of the proposed Review Petition. All the contentions of the parties in that regard are expressly kept open. Order accordingly.

**(R. G. KETKAR, J.)**

*Minal Parab*