

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3112 OF 2015**

Maria Felicia Sequeria & Ors.

..Petitioners

Vs.

Chandrakant Kantilal Shah & Ors.

..Respondents

Mr. R. S. Tripathi for the Petitioners

**Mr. Karl Tamboly a/w Mr. Sumanth Anchan i/b Wadia & Ghandy for the
Respondent Nos.1A to 1G**

CORAM : R. M. SAVANT, J.

DATE : 1st SEPTEMBER, 2015

P.C.

1 After arguing for sometime, the Learned Counsel Mr. Tamboly appearing for the Respondent Nos.1A to 1G i.e. proponents of the application Exhibit 42 on instructions states that the said Respondents would withdraw the said application Exhibit 42 and would proceed in so far as the preliminary issue is concerned on the basis of the affidavit in lieu of examination in chief as originally filed by the Plaintiffs.

2 In view of the said statement made by the Learned Counsel for the Respondent Nos.1A to 1G, there is now no warrant to consider the impugned order on merits. The impugned order to accordingly stand set aside. Needless to state that the affidavit as filed originally by the Plaintiffs would stand as it is. The Learned Counsel Mr. Tamboly further points out that the adjudication of

the said preliminary issue framed under Section 9A relating to limitation is pending since last 2 and ½ years. In my view, it would be just and proper to direct the expeditious adjudication of the said issue. The Trial Court is accordingly directed to try and decide the said issue latest by 31-12-2015, by giving proper opportunity to the parties. All the contentions as regards the evidence that would be led on behalf of the parties are kept open.

3 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]