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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 272 OF 2014

M.L.Gadasing and Associates and others .. Applicants

Vs.

Narmada Khand Udyog Shahakari
Mandali Ltd and others .. Respondents

Mr.Anand S.Kulkarni, Advocate for the Applicants.

CORAM : R. G. KETKAR, J.
DATE : 05th AUGUST, 2015

P.C. :

. Heard Mr.Anand S.Kulkarni, learned Counsel for the applicants.

2. By this Application under Section 115 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), original plaintiffs have challenged the judgment and order dated 04/12/2013 passed by the learned Joint Civil Judge, Senior Division, Barshi below Exhibit 1 in Special Civil Suit No. 38 of 2009. By that order, the learned trial Judge upheld the objection raised by the defendants and held that Court of Civil Judge, Senior Division, Barshi has no territorial jurisdiction to entertain and try the Suit. The learned trial Judge returned the plaint under Order 7 Rule 10 of C.P.C. for presentation in the appropriate Court.

3. As the impugned order is passed under Order 7 Rule 10 of C.P.C., applicants have equally efficacious alternate statutory remedy of Appeal under Order 43 Rule 1(a) of C.P.C. In view thereof, Mr.Kulkarni seeks permission to withdraw this Civil Revision Application with liberty to file Appeal. He further submits that if there is any delay in filing the Appeal, he will take out appropriate application and time spent in prosecuting this Application bonafide may be excluded.

4. In view thereof, on the motion made by Mr.Kulkarni, Application is allowed to be withdrawn with liberty as prayed for. In case, there is any delay in filing the Appeal, applicants will be at liberty to take out application for condoning the delay on ground that time spent in prosecuting this Application bonafide may be excluded as the Application was filed within time. Order accordingly.

(R. G. KETKAR, J.)