

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6366 OF 2015

Bharat Mulji Khona

Proprietor of

M/s. Payal Enterprises

: Petitioner

versus

Vijay Hira Gharat and ors.

: Respondents.

**Mr. Atul Rajadhyaksha, Senior Advocate, a/w Mr. Vagish Mishra i/by M
Tripathi & Co. for the Petitioner.**

Ms. Mamta Sadh i/by Ms. Aparna Shinde for the Respondent Nos.2 to 6.

Mr. Rohit Sakhadeo i/by Mr. P V Sakhadeo for the Respondent No.7.

CORAM : R. M. SAVANT, J.

DATE : 26th August 2015

P.C.

1 The order dated 17/11/2014 passed by the learned Civil Judge, Senior Division, Panvel allowing the Application (Exhibit 39) filed by the original Defendant Nos. 2 to 6 i.e. the Respondent Nos. 2 to 6 herein is taken exception to by way of the above Writ Petition. The said application has been allowed principally on the ground that the property in question which is the subject matter of the suit filed by the Petitioner has been partitioned pursuant to the decree passed some time in July 2010 in Regular Civil Suit No.300 of 2008. The subject matter of the instant suit filed by the Petitioner is the land covered by the decree passed in the said suit.

2 The learned Senior Counsel appearing for the Petitioner Shri Atul

Rajadhyaksha states that since the decree passed in the said suit acts to the prejudice of the Petitioner, the Petitioner would withdraw the above Petition and adopt such remedy as is available in law against the decree passed in Regular Civil Suit No.300 of 2008 and would file an application for re-joining of the Respondent Nos. 2 to 6 as party Defendants in the instant suit i.e. Special Civil Suit No.564 of 2007 contingent upon the orders that would be passed in the proceedings challenging the said decree. The above Writ Petition is accordingly allowed to be withdrawn with liberty as prayed for.

[R.M.SAVANT, J]