

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7385 OF 2013  
WITH  
WRIT PETITION NO. 7664 OF 2014

M/s. J. M. Constructions .. Petitioners  
VS.  
Dr. Rustom P. Patel & Ors. .. Respondents

Mr. Charles De Souza i/b. Ms Mahima Singh for Petitioners.  
Mr. R. M. Haridas for Respondent No. 1.  
Dr Birendra Saraf with Ms Pooja Kshirsagar i/b. Mr. Yogesh Adhia  
for Respondent Nos. 2 to 6.

**CORAM : M. S. SONAK, J.**  
**DATE : 16 JULY 2015**

**P.C. :-**

1] The learned counsel for the petitioners seeks leave to withdraw these two writ petitions with liberty to challenge the orders impugned in these two petitions in a substantive appeal, as and when occasion arises for preferring the same.

2] The aforesaid, is in the context of RAE Suit No. 467/767 of 2005, which is instituted by the petitioners seeking eviction of respondent no. 2. The order impugned in writ petition no. 7385 of 2013, has basically held that the written statement was indeed filed by the defendant no. 1 as per the order dated 28 February 2006. Accordingly, in case the petitioners have occasion to challenge any

final orders that may be made in RAE Suit No. 467/767 of 2005, the petitioners, seeks liberty, to challenge the orders impugned in this petition as well, in the said substantive appeal.

3] Although, such request is opposed by the respondent no. 2, in the facts and circumstances of the case, rather than decide such issues in the present petition, it would be appropriate if the petitions are permitted to be withdrawn with liberty as prayed for.

4] Accordingly, these petitions are dismissed as withdrawn with liberty as prayed for. However, it is clarified that all contentions of all parties, including *inter alia* on the issue of maintainability are specifically kept open.

**(M. S. SONAK, J.)**