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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5067 OF 2015

Raosaheb Gulabrao Shitole

Since deceased through his legal heirs

Vishwanath Raosaheb Shitole and another ... Petitioners

Vs.

Ramchandra Bhujangrao Ingale and others .. Respondents

Mr.Sachin B.Thorat, Advocate for the Petitioners.

CORAM : R. G. KETKAR, J.

DATE : 24th JUNE, 2015

P.C. :

. Not on board. At the request of Mr.Sachin B.Thorat, taken up in the Production Board.

2. Heard Mr.Sachin B.Thorat, learned Counsel for the petitioners.

3. By this petition under Article 227 of the Constitution of India, petitioners have challenged the order dated 08/01/2014 passed by the learned Executing Court in Regular Darkhast No. 7 of 1996. By that order, the learned trial Judge has sent the papers under Section 54 of the Code of Civil Procedure, 1908 for execution. Mr.Thorat submitted that decree-holder as also judgment-holder have expired and therefore, decree has become in-executable. He submitted that the petitioners will take out appropriate proceedings

before the Executing Court raising this contention. He, therefore, submits that petitioner will withdraw with petition provided liberty is reserved to them to take out appropriate proceedings before the Executing Court.

4 In view thereof, Petition is allowed to be withdrawn with liberty to take out appropriate proceedings before the Executing Court. If such proceedings are taken, the learned Executing Court will decide it on its own merit and in accordance with law. Order accordingly.

(R. G. KETKAR, J.)