

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5473 OF 2015

Ratanbai Eknath Bhosale and others ... Petitioners
Vs.
Baban Kashinath Sarode and others ... Respondents

Mr. Jaydeep Deo for Petitioners.
Mr. Dilip Bodake for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : 2ND JULY, 2015

P.C. :

Heard Mr. Deo, learned Counsel for petitioners and Mr. Bodake, learned Counsel for respondent No.1.

2. Mr. Bodake raises preliminary objection of maintainability of this Writ Petition. He submitted that the Courts below have dismissed the application under Order 21, Rule 97 of the Code of Civil Procedure, 1908 and dismissal amounts to decree, and therefore, petitioners will have to institute Second Appeal.

3. Realizing this position, Mr. Deo seeks permission to withdraw this Petition with liberty to file Second Appeal.

4. On the motion made by Mr. Deo, Petition is allowed to be withdrawn with liberty as prayed for. It is made clear that I have not examined merits of this Petition. All the contentions of the parties are expressly kept open.

(R. G. KETKAR, J.)