

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8549 OF 2014

Vashdeo Rewachand Bhojwani and others ... Petitioners
Vs.
Union of India and others ... Respondents

Mr. Shyamprasad R. Mishra for Petitioners.
Ms Archana Jaisingh i/b. Ms Vandana D. Jaisingh for Respondent No.3.

CORAM : R. G. KETKAR, J.
DATE : 29TH JULY, 2015

P.C. :

Heard Mr. Mishra, learned Counsel for petitioners and Ms Jaisingh, learned Counsel for respondent No.3.

2. By this Petition under Article 227 of the Constitution of India, original plaintiffs have challenged the judgment and order dated 30.05.2015 passed by the learned 2nd Joint Civil Judge, Senior Division, Pune below exhibit-1 in Special Civil Suit No.129 of 2003. By that order, the learned trial Judge rejected the plaint under Order VII, Rule 11(a) and (d) read with Section 9A of the Code of Civil Procedure, 1908 (for short 'C.P.C.'). Having regard to the definition of 'decree' under Section 2(2), rejection of plaint is included in the expression 'decree'. In view thereof, Mr. Mishra seeks permission to withdraw this Petition with liberty to institute substantive Appeal.

3. On the motion made by Mr. Mishra, Petition is allowed to be withdrawn with liberty as prayed for. In case there is delay in filing the Appeal, petitioners are at liberty to take out application for condonation of delay setting out therein that time spent in bonafide prosecuting the Petition may be excluded. It is made clear that I have not examined the merits of the case. All the contentions of the parties on merits are expressly kept open.

(R. G. KETKAR, J.)