

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

WRIT PETITION NO.9488 OF 2013

Philomena Anthony D'souza

.. Petitioner

Versus

Reuben Danny Dias and another

.. Respondents

Shri. Kunal Bhanage, for the Petitioner.

Ms. E. A. Gonsalves, for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 1st DECEMBER, 2015

PC.

After arguing for some time, the Learned Counsel appearing for the Petitioner Shri. Kunal Bhanage on instructions of Mr. Joseph Stephen D'Souza who is personally present in Court and who is identified by him, states that the Petitioner would withdraw the application Exh.10 and file an application under Order 41 Rule 27 of the Civil Procedure Code (For short "CPC") to lead additional evidence in the Appeal. In view of the said statement made by Shri. Kunal Bhanage, it is not necessary to consider the impugned order on merits. The impugned order would accordingly stand set aside. If any such application is filed by the Petitioner under Order 41 Rule 27 of the CPC, needless to state that the same would be considered by the Appellate Bench of the Small Causes

Court on its own merits and in accordance with law having regard to the said provision as also uninfluenced by the fact that the instant Petition has been withdrawn and that by the impugned order an earlier application for leading additional evidence and for the remand of the matter to the Trial Court was rejected. Needless to also state that the contentions of the parties are kept open. With the aforesaid directions, the Writ Petition is disposed of.

[R.M. SAVANT, J]