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IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10740 OF 2014

Nitin Laxman Vartak and others .. Petitioners

Vs.

Nitin Jagannath Vartak and others .. Respondents

Mr.Abhijit P.Kulkarni, Advocate for the Petitioners.

CORAM : R. G. KETKAR, J.
DATE : 18th JUNE, 2015

P.C. :

. Heard Mr.Abhijit P.Kulkarni, learned Counsel for the petitioners.

2. By this petition under Article 227 of the Constitution of India, petitioners have challenged the judgment and order dated 05/10/2012 passed by the learned 3rd Joint Civil Judge, Junior Division, Vasai, below Exhibit 5 in Regular Civil Suit No. 77 of 2011 as also the judgment and order dated 30/07/2014 passed by the learned District Judge-1, Vasai in Misc. Civil Appeal No. 213 of 2012. By these orders, the Courts below dismissed the application taken out by the petitioners Under Order 39 Rule 1 of the Code of Civil Procedure, 1908 for injunction restraining the defendants from using the disputed road.

3. Mr.Kulkarni submitted that after passing of the impugned order by the learned District Judge, there are subsequent development. Upon taking instructions from petitioner No.1 who is present in the Court, he seeks permission to withdraw the Petition with liberty to take out a fresh application for injunction.

4. In view thereof, on the motion made by Mr.Kulkarni, Petition is allowed to be withdrawn with liberty as prayed for. It is expressly made clear that I have not examined maintainability of the proposed application and all the contentions in that regard including maintainability of the said application are expressly kept open. If such application is made, the trial Court will decide it on its own merit and in accordance with law.

(R. G. KETKAR, J.)