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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12154 OF 2015

Mr.M.N.Dhuri and others ... Petitioners

Vs.

Mrs.S.B.Bhalekar and others ... Respondents

Mr.Sanjiv A.Sawant a/w Mr.H.S.Kadam, Advocate for Petitioners.

Mr.Sandeep V. Mahadik, Advocate for Respondents No. 1 & 3.

CORAM : R.G.KETKAR, J.

DATE : 17th DECEMBER, 2015

P.C. :

. Not on board. At the request of Mr. Sawant, taken up for admission.

2. Heard Mr. Sanjiv A.Sawant, learned Counsel for the petitioners and Mr. Sandeep V. Mahadik, learned Counsel for respondents No. 1 & 3 at length.

3. By this Petition under Article 227 of the Constitution of India, petitioners, hereinafter referred to as defendants No. 2 to 4, have challenged the judgment and order dated 02/11/2015 passed by the learned Judge, City Civil Court (Borivali Division), Dindoshi in Notice of Motion No. 281 of 2015 in S.C. Suit No. 2707 of 2009. By that order, the learned trial Judge rejected the Motion taken out by the defendants No.2 to 4 for condoning the delay in filing the written statement and seeking permission to file written statement on record.

4. After arguing the Petition for some time, Mr.Sawant

upon taking instructions from the instructing advocate who is present in the Court, seeks permission to withdraw this Petition with liberty to file fresh Notice of Motion. Mr.Sawant submitted in the affidavit in support of earlier Motion, defendants No. 2 to 4 did not give particulars for explaining delay. Defendants No. 2 to 4 will take out fresh Motion and also will give details in affidavit in support of Motion as to the cause that prevented them from filing the Motion. He further states that in case the defendants No. 2 to 4 are granted such liberty, all the contentions of the respondents may be kept open.

5. In view thereof, on the motion made by Mr.Sawant, Petition is allowed to be withdrawn with liberty to take out fresh Notice of Motion for the same relief by giving better and further particulars. All the contentions of the respondents in that regard are expressly kept open.

6. Defendants No. 2 to 4 shall take out fresh Notice of Motion within one week from today and serve copy in advance on the other side. Respondents No. 1 & 3 and other respondents, if they so desire, are permitted to file reply within one week from receipt of the Motion.

7. The learned trial Judge is requested to dispose of the Motion within four weeks from the date of filing of the Motion. Order accordingly.

(R.G.KETKAR, J.)