

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 274 OF 2015
WITH
CIVIL APPLICATION NO.604 OF 2015 IN SA/274 OF 2015**

1. Pandurang Agnu Wadar-..Appellant
Chougule

Vs

1. Diwanji Agnu Wadar
Chougule and Ors... Respondents

Mr. S. A. Rajeshirke, Advocate for Appellant.
Mr. Dilip Bodake, Advocate for Respondents.

CORAM : R.G.KETKAR,J.
DATE : 18/04/2015

PC:

1. Heard Mr.S.A.Rajeshirke, learned counsel for the appellant and Mr. Dilip Bodake, learned counsel for the respondents.

2. By this Appeal under section 100 of the Code of Civil Procedure, 1908, (for short, 'C.P.C.'), the appellant-original petitioner in Probate proceedings has challenged the Judgment and decree dated 16.10.2014 passed by the learned Adhoc District Judge-1, Sangli in Regular Civil Appeal No.184 of 2013. By that order, the learned District Judge allowed the appeal preferred by the opponents (respondents herein) and quashed and set aside the Judgment and decree dated 18.3.2013 passed by the learned trial Judge and

dismissed Misc. Application No.38 of 2006.

3. Mr.Bodake raised a preliminary objection that Second Appeal is not maintainable and the appellant will have to institute Civil Revision Application under section 115 of C.P.C. Realizing this position, Mr. Rajeshirke seeks permission to withdraw this Appeal with a liberty to adopt appropriate proceedings including Civil Revision Application.

4. In view thereof, Second Appeal is allowed to be withdrawn with liberty as prayed for. In view of disposal of Appeal, Civil Application No. 604 of 2015 for stay does not survive and the same is disposed of. Refund of Court fee as per Rules.

5. It is expressly made clear that I have not examined merits of the case. Office is also directed to return certified copies submitted by the appellant.

(R.G.KETKAR, J.)