

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 470 OF 2016**

Shri Atul Kishor Karle and Anr	Vs	Petitioners
Shri Bharat Gablya Gaykhe and Ors		.. Respondents

Mr.Uday B. Nighot, Advocate for Petitioners.

CORAM : R.G.KETKAR,J.
DATE : 18/03/2016

PC:

1. Heard Mr. Uday Nighot, learned counsel for the petitioners.
2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 3.10.2015 passed by the learned Civil Judge, Jr. Dn., below Exhibit 26 in Regular Civil Suit No. 49 of 2011. By that order, the learned trial Judge rejected the application made by the petitioners, hereinafter referred to as 'defendants no.1 and 2', for setting aside 'No W.S.' order.
3. It is not in dispute that on 17.6.2011 suit summons was served on defendants no.1 and 2. Defendants no. 1 and 2 appeared on 22.6.2011. No W.S order was passed on 20.10. 2012 and application Exhibit 26 was made on 16.8.2014 without even praying for condoning delay in filing application for setting aside 'No WS' order.
4. After arguing the petition for some time, Mr. Nighot seeks permission to withdraw application Exhibit-26 with liberty to file

fresh application giving all details and also making out a case for condoning the delay.

5. In view thereof, Petition is allowed to be withdraw with liberty as prayed for. If such application is made, the learned trial Judge will decide the same uninfluenced by the observations made in the impugned order. Order accordingly.

(R.G.KETKAR, J.)