

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1819 OF 2016

SMT. KALPANA KAPURCHAND BARLOTA
(JAIN) AND ANR.

...Petitioners

Versus

SMT. BHARATI JINENDRAKUMAR
DIWAKAR AND ANR.

...Respondents

....

Mr. Inderjeet Yadav, Advocate for the Petitioners.

Mr. Sachin Raje a/w. Bhakti Jugal, Advocate for the
Respondents.

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CORAM : R. G. KETKAR, J.

DATE : 11th FEBRUARY, 2016

P.C.

1. Not on board. At the request of Mr. Yadav, taken up in the production board.
2. Heard Mr. Inderjeet Yadav, learned Counsel for the petitioners and Mr. Sachin Raje, learned Counsel for the respondents.
3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 12.12.2015 passed by learned Judge, presiding over Court

room No.1 of Bombay City Civil Court at Bombay in Notice of Motion No.1087/2012 in S.C. Suit No.7431/1996 (High Court Suit No.721/1996). By that order, learned trial Judge took on record and marked as Exhibit-22 the consent terms dated 13.11.2009 and ordered decree to be drawn in terms of the consent terms.

4. Mr. Raje has raised preliminary objection on the ground of maintainability of the Petition. He submitted that in view of Order 43 Rule 1A (2) of Code of Civil Procedure, 1908 (for short, 'CPC'), the impugned order is appealable.

5. Realizing this position, Mr. Yadav seeks permission to withdraw this Petition with liberty to file an appeal. On the motion made by Mr. Yadav, the Petition is allowed to be withdrawn with liberty as prayed for. It is expressly made clear that I have not examined the merits of the case as also the proposed proceedings. All contentions on merits of the matter are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)