

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2481 OF 2016

MR. PRAVIN BALKRISHNA SUTAR
AND ANR.

...Petitioners

Versus

MR. RAJENDRA BALASAHEB DHAWALE

...Respondent

....

Mr. Nitin P. Dalvi, Advocate for the Petitioners.

Mr. Niranjana A. Mogre, i/b. Ravi G. Shinde, Advocate for the
Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 12th APRIL, 2016

P.C.

1. Not on board. At the joint request of learned Counsel for the parties, taken up in the production board for admission.
2. Heard Mr. Nitin Dalvi, learned Counsel for the petitioners and Mr. Niranjana Mogre, learned Counsel for the respondent, at length.
3. Rule. Mr. Mogre waives service on behalf of the respondent. At the request and by consent of the parties, Rule is made returnable forthwith and petition is taken up for final

hearing.

4. By this petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 19.1.2016 passed by the learned 9th Jt. Civil Judge, Senior Division, Pune below Exhibit-57 in Special Civil Suit No.192/2011. By that order, learned trial Judge rejected the application made by the petitioners under Section 10 of Code of Civil Procedure, 1908 (for short, 'CPC') for staying Special Civil Suit No.192/2011 pending the disposal of Special Civil Suit No.258/2008 which was instituted by the petitionerS for specific performance of the MOU dated 22.1.2003.

5. Mr. Dalvi submitted that the petitioners have instituted Special Civil Suit No.258/2008 in the Court of Joint Civil Judge, Senior Division, Pune for specific performance of MOU. The respondent/plaintiff has instituted Special Civil Suit No.192/2011 in the Court of 9th Jt. Civil Judge, Senior Division, Pune for possession of the suit property. Learned Counsel appearing for the parties jointly state that Special Civil Suit No.258/2008 which was dismissed in default on 26.6.2014 and the application for restoration and condonation of delay may be

allowed by consent and the suit may be restored. After restoration of the suit, both the suits may be tried together and placed before the one Court as may be assigned by the learned Principal District Judge, Pune. In view thereof, by consent of the parties, application for restoration of Special Civil Suit No.258/2008 as also Misc. Application No.17/2015 for condonation of delay in filing restoration of application are allowed. Special Civil Suit No.258/2008 is restored to the file of trial Court. Special Civil Suit No.258/2008 and Special Civil Suit No.192/2011 shall be clubbed together and shall be assigned to one and the same Court by the learned Principal District Judge, Pune. Parties agree that they will appear before the learned Principal District Judge, Pune along with the authenticated copy of this order. Liberty is reserved with the parties to apply for expeditious disposal of the suit. In view thereof, the impugned order stands dissolved. Rule is made absolute accordingly.

(R. G. KETKAR, J.)