

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 12031 OF 2015

GANPATI DATTATRAY PATIL
AND OTHERS

...Petitioners

Versus

VASANT BABUSO PATIL
AND OTHERS.

...Respondents

....

Mr. Abhijeet A. Desai, Advocate for the Petitioners.

....

CORAM : R. G. KETKAR, J.

DATE : 23rd FEBRUARY, 2016

P.C.

1. Heard Mr. Abhijeet Desai, learned Counsel for the petitioners, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 10.11.2014 passed by learned District Judge, Kolhapur below Exh.14 in Appeal No.6/2010. By that order, learned District Judge rejected the application taken out by the petitioners-appellants under Order 41 Rule 27 of CPC on the ground that no ground as contemplated under Order 41 Rule 27 of CPC is made out or

permitting additional evidence.

3. After arguing the Petition for quite sometime, Mr. Desai upon taking telephonic instructions, seeks permission to withdraw Application Exh.14 with liberty to file fresh application making out grounds available under Order 41 Rule 27 of CPC. He submits that if such an application is made, learned District Judge may be directed to decide the same uninfluenced by the observations made in the impugned order. He states that on or before 29.2.2016, the petitioners will file such an application and serve copy in advance on the other side.

4. In view thereof, on the motion made by Mr. Desai, application Exh.14 is permitted to be withdrawn with liberty as prayed for. All contentions of the respondents are expressly kept open. If such an application is made, learned District Judge will decide the same uninfluenced by the observations made in the impugned order. Order accordingly.

(R. G. KETKAR, J.)