

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.5719 OF 2015
WITH
WRIT PETITION NO.5720 OF 2015**

Triloksingh Pahlasingh Rajpal Petitioner

versus

Gangabai Devshi Khone & Ors. ... Respondents

**WITH
WRIT PETITION NO.5720 OF 2015**

Smt. Hardevi Pahlasingh Rajpal Petitioner

versus

Gangabai Devshi Khone & Ors. ... Respondents

Mr.S. Shamim i/b. M/s Shamim & Co. for the petitioner in WP No.5719/15.

Mr.Vishal Kanade a/w Ms Smita Sawant & Archana Warale i/b. Mr.Balraj Thakkar for the Petitioner in WP No.5720/15.

Mr.D.M. Joshi for respondent Nos.1(D) to 1(F).

Mr.Aashutosh Shukla i/b. Mr.M.V. Pandey for respondent No.3 in WP No.5719/15 and WP No.5720/15.

**CORAM : R.G. KETKAR, J.
DATE : 19th OCTOBER, 2016**

P.C. :

1. Heard Mr.Kanade, learned Counsel for the petitioner in

W.P. No.5720/15 and Mr.Shamim, learned Counsel for the petitioner in W.P. No.5719/15, Mr.Joshi, learned Counsel for the respondents No.1(D) to 1(F) and Mr.Pandey, for respondent No.3 in both the petitions at length.

2. Writ Petition No.5719/15 is instituted by defendant No.2. Writ Petition No.5720/15 is instituted by defendant No.1. Defendant No.1 is the mother of defendant No.2. Both these petitions are directed against the judgment and order dated 04/03/2014 passed by learned Trial judge below Ex.8 in R.A.E. Suit No.52/81 of 2012 as also the judgment and order dated 17/01/2015 passed by the appellate Bench of the Small Causes Court in Miscellaneous Appeal No.160/14 preferred by defendant No.1 and Miscellaneous Appeal No.183/14 preferred by defendant No.2 and Miscellaneous Appeal No.221/14 preferred by defendant No.3. Defendant No.3 has not challenged the order passed by the appellate Court.

3. Mr.Kanade, upon taking instructions from the Instructing Attorney Mr.D.M. Thakur states that defendant No.1 is

not pressing this petition. Mr.Shamim also states that defendant No.2 has instructed him not to press the petition. Learned Counsel for the defendants No.1 and 2 stated that they will place in writing instructions to that effect on or before Friday i.e. 21/10/2016. Mr.Kanade submitted that defendant No.1 is 86 years old and the Trial Court may be directed to dispose of the suit in a time bound manner.

4. In view thereof, on the motion made by learned Counsel for the petitioners, petitions are allowed to be withdrawn and disposed of as not pressed. Liberty is reserved to defendants to file appropriate application before the Trial Court for disposal of the suit in a time bound manner. If such application is taken out, learned Trial Judge will bear in mind that defendant No.1 is 86 years old and pass appropriate orders. All the contentions of the parties on merits are expressly kept open.

(R. G. KETKAR, J.)