

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

**WRIT PETITION NO.3860 OF 2016
WITH
WRIT PETITION NO.3861 OF 2016**

Dashrath Ramchandra Patil and
Anr.

Petitioners

Vs

Shri Hiraji Ramchandra Patil,
since deceased, through his Lrs
Ramesh Hiraji Patil and Ors

.. Respondents

Mr. Rajesh Datar, Advocate for Petitioners.
Mr.S.K.Shinde i/b Legal Catalyst, Advocates for Respondent no.8.
Mr. S.S.Kulkarni, Advocate for Respondent no.9

CORAM : R.G.KETKAR,J.
DATE : 14/12/2016

PC:

1. Heard Mr.Rajesh Datar, learned counsel for the petitioners, Mr.S.K.Shinde, learned counsel for respondent no.8 and Mr.S.S.Kulkarni, learned counsel for respondent no.9 at length.
2. By these Petitions under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as plaintiffs, have challenged the Judgment and order dated 18.3.2016 passed by the learned District Judge-10, Thane in Misc.Civil Appeal No. 205 of 2014 as also in Misc.Civil Appeal No. 214 of 2014. By these orders, the learned District Judge allowed the Appeals preferred by defendant no.8 and defendant no.9 and quashed and set aside the judgment and order dated 30.10.2014 passed by the learned trial Judge below Exhibit-5 in Spl. Civil Suit No.499 of

2012. The learned District Judge dismissed the Application-Exhibit-5.

3. Mr.Datar orally applies for deleting respondents/defendants no.1 to 6 on the ground that they did not appear in the Courts below and that no relief is sought against them. On the oral application made by Mr. Datar, leave to delete respondents no.1 to 6 are granted.

4. Rule. Learned counsel for respondents no.8 and 9 waive service. At the request and by consent of the parties, rule is made returnable forthwith and the Petitions are taken up for final hearing.

5. After arguing the Petitions for quite some time, learned counsel appearing for the parties submit that, by consent, the order passed by the learned District Judge in both the Appeals may be set aside and the Appeals may be restored to the file of the learned District Judge. They further submit that the parties will appear before the learned District Judge on 19.12.2016 and for that purpose no fresh notice be issued to them. They further submit that the learned District Judge may be directed to dispose of the Appeals within four weeks from the date of appearance of the parties.

6. In view thereof, by consent of the parties, the impugned orders dated 18.3.2016 in Misc. Civil Appeals No.205 of 2014 and 214 of 2014 are set aside. Misc. Civil Appeals No.205 of 2014

and 214 of 2014 are restored to the file of the learned District judge.

(ii) Parties agree that they will appear before the learned District Judge on 19.12.2016 and for that purpose no fresh notice be issued to them. The learned District Judge is requested to dispose of the Appeals as expeditiously as possible and preferably within four weeks from the date of appearance of the parties. All contentions of the parties on merits are expressly kept open.

(iii) Rule is made absolute in the aforesaid terms with no order as to costs.

(iv) All parties including the learned District Judge to act on the authenticated copy of this order.

(R.G.KETKAR, J.)