

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 4331 OF 2016

VANITA CHANDRAKANT KINDALEKAR
AND ANR

...Petitioners

Versus

RAJIV P. KULKARNI AND ORS

...Respondents

....

Mr. Vishal Kanade i/b. Divekar Bhagwat & Co., for the
Petitioners.

....

CORAM : R. G. KETKAR, J.

DATE : 11th APRIL, 2016

P.C.

1. Not on board. At the request of Mr. Kanade, taken up
in the production board, for admission.

2. By this Petition under Article 227 of the Constitution of
India, the petitioners have challenged the judgment and order
dated 9.3.2016 passed by learned Judge, presiding in Court
Room No.14 of the Bombay City Civil Court at Bombay. By that
order, learned trial Judge rejected the application Exhibit-6
made by the petitioners, hereinafter referred to as the 'plaintiffs'
for adjourning the suit *sine die* till determination of the
Testamentary Suit No.145/2013 pending in this Court and has

kept the suit for passing dismissal order on 13.4.2016. Upon taking instructions, Mr. Kanade states that on 13.4.2016 the plaintiffs will file affidavit of evidence. If the plaintiffs participate in the suit, surely the Court will proceed with the suit and will not pass dismissal order. However, if the plaintiffs do not participate in the suit, then in that event the Court will be left with no option but to dismiss the Suit. As the plaintiffs have now made it clear that they will participate before the trial Court by filing affidavit of evidence on 13.4.2016, the trial Judge will proceed with the suit.

3. Mr. Kanade further states that the plaintiffs have already taken out proceedings for transferring Suit No.6960/2001 on the file of Bombay City Civil Court and tagging it with Testamentary Suit No.145/2013. Statement made by Mr. Kanade is recorded.

4. In view thereof, the Petition is disposed of as not pressed. Order accordingly.

(R. G. KETKAR, J.)