

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 560 OF 2015**

M/s Sumeet Pragati Developers
LLP

..Applicants

Vs

The Bharat Cooperative Bank &
Anr.

.. Respondents

Mr. Uday Mahajan a/w Ms Sayali Gharpure i/b M/s Divekar & Co.,
Advocates for Applicants.

Mr. Niranjana Jagtap i/b Niranjana Jagtap & Co., Advocates for
respondents.

**CORAM : R.G.KETKAR,J.
DATE : 27/06/2016**

PC:

1. Heard Mr. Uday Mahajan, learned counsel for the applicants and Mr. Niranjana Jagtap, learned counsel for the respondents.
2. By this application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the applicants, hereinafter referred to as 'plaintiffs', have challenged the Judgment and decree dated 23.4.2009 passed by the learned Judge, presiding over Court Room No.10 of the Small Causes Court at Bombay in L.E. & C. Suit No.59/70 of 2006 as also the Judgment and order dated 13.3.2013 passed by the Appellate Bench of the Small Causes Court at Mumbai in Appeal No.343 of 2009. By these orders, the Courts below dismissed the suit instituted by the

applicants for recovery of repair cess. Mr. Mahajan relied upon the information furnished to the plaintiffs on 13.2.2015 under Right to Information Act, 2005. It is an admitted position that this material was not produced by the plaintiffs before the courts below. The same cannot be considered for the first time in this application under section 115 of C.P.C

3. In view thereof, Mr.Mahajan seeks permission to withdraw this Application with liberty to file Review petition before the Appellate Court.

4. In view thereof, the plaintiffs are permitted to withdraw this Application with liberty as prayed for. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R.G.KETKAR, J.)