

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 729 OF 2014**

Shri Makbool C. Khan, since ..Applicants
deceased,through Legal Heirs:
1(a) Smt Salmabi w/o Makbook
C. Khan and Ors.

Vs

Shri M.S.Chhotu, since .. Respondents
deceased, through his legal
heirs:
1-A) Aminabi Khan and Ors.

Ms. Seema Sarnaik, Advocate for Applicants.

**CORAM : R.G.KETKAR,J.
DATE : 14/06/2016**

PC:

1. Heard Ms Seema Sarnaik, learned counsel for the applicants.
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 31.8.2007 passed by the learned Judge, presiding over Court Room No.6 of the Small Causes Court at Bombay in L.E. & C. Suit No.54/54 of 1997 as also the Judgment and order dated 19.3.2014 passed by the Appellate Bench of the Small Causes Court at Mumbai (Bandra) in Appeal No.223 of 2008. the courts below dismissed the suit instituted by the applicants for

recovery of possession of Room admeasuring 10'x14' in Salmabi Chawl, Q-Block, Squatters Colony, Bandra Plot, Jogeshwari (East) Mumbai (for short, 'suit premises') on the ground that the defendant is a licensee not protected by the provisions of law. The Courts below held that the defendant is a protected tenant.

3. Ms. Sarnaik states that Applicant no.1(b)-Zafrulla Maqbool Khan is present in the Court. She has tendered photocopy of PAN Card which is taken on record and marked 'x' for identification. Upon taking instructions from him, she seeks permission to withdraw this Application with liberty to institute fresh proceedings on the same cause of action.

4. On the motion made by Ms. Sarnaik, Application is allowed to be withdrawn with liberty as prayed for. All contentions of the parties on merits are expressly kept open.

(R.G.KETKAR, J.)