IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
**Writ Petition NO. 7867 OF 2014**

M/S. PUNYODAYA PARADISE
AND ORS ...Petitioners

*Versus*

MRS. SHWETA MANISH DESHMUKH
(NEE SHWETA SHIVAJI ZUNJARRAO),
THROUGH C.A. MR. K. S. DESHMUKH
AND ORS ...Respondents

....

Mr. R.S. Apte, Senior Advocate i/b. Girish J. Paryani, Advocate for the Petitioners.
Mr. Prashant Chavan i/b. R.R. Chile, for respondent Nos.1 and 2.

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CORAM : R. G. KETKAR, J.

DATE : 28th MARCH, 2016

P.C.

1. Not on board. At the request of Mr. Apte, taken up in the production board.

2. Heard Mr. R.S. Apte, learned Senior Counsel for the petitioners and Mr. Prashant Chavan, learned Counsel for respondent Nos.1 and 2, at length.

3. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order

dated 27.3.2014 passed by the learned 2nd Jt. Civil Judge, Senior Division, Kalyan below Exhibit-39 in Special Civil Suit No.377/2012. By that order, the learned trial Judge rejected the application Exhibit-39 made by the petitioners, hereinafter referred to as defendant Nos.15 to 19 for condoning the delay and setting aside No-WS order.

4. After arguing the petition for some time, Mr. Apte seeks permission to withdraw application Exhibit-39 with liberty to file fresh application giving all the material facts and particulars for condoning the delay and setting aside 'No-WS' order as also for taking on record the written statement.

5. Mr. Chavan states that, in case, such an application is made, all contentions of respondent Nos.1 and 2 may be kept open.

6. In view thereof, on the motion made by Mr. Apte permission to withdraw the application Exhibit-39 is granted with liberty to file fresh application giving all the material facts and particulars for condoning the delay and setting aside 'No-WS' order as also for taking on record the written statement. All

contentions of the parties are kept open. In case such an application is taken out, the learned trial Judge will decide the same uninfluenced by the observations made in the impugned order.

7. Mr. Apte assures that within three weeks from today, defendant Nos.15 to 19 will file application and give advance copy to the other side. Mr. Chavan assures that within three weeks from receipt of the proposed application, the respondent Nos.1 and 2/plaintiffs will file reply. Learned trial Judge is requested to decide such an application within four weeks from filing of the reply by respondent Nos.1 and 2. Mr. Apte states that tomorrow is the next date of hearing before the learned trial Judge. Learned trial Judge will adjourn the proceedings for a period of three weeks from today. Order accordingly.

( R. G. KETKAR, J.)

Deshmane (PS)