

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11854 OF 2015**

Mr. Vinod s/o Antu Singh and Ors

..petitioners.

Vs

Mr. Chetnarayan Singh s/o
Sitaram Singh and Ors

.. Respondents

Mr. Omar Khaiyam Shaikh, Advocate for the petitioners.

**CORAM : R.G.KETKAR,J.
DATE : 08/06/2016**

PC:

1. Heard Mr. Omar Shaikh, learned counsel for the petitioners at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the Judgment and order dated 1.10.2015 passed by the learned Judge presiding over Court Room No.32 of Small Causes Court at Bombay (Bandra Branch) below Exhibit 23 in T.E.& R. Suit No. 135 of 2011. By that order, the learned trial Judge rejected the application made by the petitioners, hereinafter referred to as 'defendants no. 10 to 14' for setting aside order dated 9.3.2014 directing suit to proceed exparte as also for condoning delay in filing Written Statement. Mr. Shaikh submitted that the learned trial Judge rejected the application on the ground that defendants no. 10 to 14 have given reasons for absence of defendant no.11 only and

have not given any reason, qua rest of the defendants. He states that defendants no. 10 to 14 will take out fresh application giving details, qua each of the defendants. He submits that if such application is taken out, the learned trial Judge may be directed to dispose of the same uninfluenced by the observations made in the impugned order.

3. In view thereof, Petition is allowed to be withdrawn with liberty to file fresh application. All contentions of the respondents in that regard are expressly kept open. If the petitioners give all details of defendants no. 10 to 14, the learned trial Judge shall decide the same uninfluenced by the impugned order. Order accordingly.

(R.G.KETKAR, J.)