

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13053 OF 2016

Shri Vinayak Govind Patnekar
and Anr

..Petitioners.

Vs

Shri Vikas Vitthal Samant

.. Respondent

Mr. S.M.Oak, Advocate for Petitioners.

**CORAM : R.G.KETKAR,J.
DATE : 30/11/2016**

PC:

1. Not on Board. At the request of Mr.Oak, taken up for admission. Heard Mr. S.M.Oak, learned counsel for the petitioners at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as 'plaintiffs', have challenged the Judgment and order dated 7.10.2016 passed by the trial Court below Exhibit 301 in Spl. Civil Suit No. 271 of 2013. By that order, the learned trial Judge rejected the application made by the plaintiffs under Order 18, Rule 17A read with section 151 of C.P.C.
3. Mr.Oak invited my attention to paragraph 8 of the impugned order. He submitted that when C.D was played in open court, it could not be viewed. However, the said case is not made out in the application at Exh.301. He, therefore seeks permission to withdraw this petition with liberty to file fresh

application for the same relief, inter alia, contending that when C.D was sought to be played in open court, it could not be viewed. He further states that the plaintiffs will file application in the trial Court on or before 5.12.2016 and serve copy in advance on the other side during this period. He further states that the trial Court has fixed the matter on 13.12.2016 for arguments.

4. In view thereof, on the motion made by Mr. Oak, the petition is allowed to be withdrawn with liberty as prayed for. If such application is made, the learned trial Judge will decide the said application on its own merits uninfluenced by the observations made in the impugned order and this order. All contentions of the respondents are expressly kept open. Order accordingly.

(R.G.KETKAR, J.)