

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER (ST) NO.32325 OF 2015****IN****NOTICE OF MOTION NO.2626 OF 2015****IN****SUIT NO. 7566 OF 2003****Reshma Estates Pvt. Ltd.****..... Appellants****VERSUS****Shivangi Shanker****W/o. Shri Ashwini Shankar & Anr.****..... Respondents**

Mr.Ishwar Ahuja, a/w. Mr.Vaibhav Achwal, i/b.Thakordas & Madgavkar for the Appellants.

Mr.Dharam Sharma, i/b. Dharam & Co. for the Respondents.

CORAM : R.D. DHANUKA, J.**DATED : 7th JANUARY, 2016****P.C.**

Learned counsel appearing for the appellant seeks liberty to withdraw this appeal from order. Mr.Sharma, learned counsel appearing for the respondents submits that though the appellants were aware that this appeal from order is not maintainable, the appellant pursued this appeal from order and has taken two adjournments before the learned trial judge on the ground that this appeal from order is pending in this court. He submits that the witness proposed to be examined by the respondents is 82 years old and was required to attend the proceedings all the way from Delhi. He submits that heavy cost shall be imposed upon the appellants for filing such proceedings which are not maintainable. Appeal from order is dismissed as withdrawn with liberty to file appropriate proceedings however subject to payment cost of Rs.10,000/- which shall be paid within one week from today to the respondents.

[R.D. DHANUKA, J.]