

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4492 OF 2016

PRAKASHCHANDRA RATANLAL BARJATIA
VERSUS
BALASAHEB MARUTI UGALE AND OTHERS

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Advocate for Petitioners : Shri Gholap Ajit M.
Advocate for Respondent 1 : Shri Suryawanshi Kamlakar J.
Advocate for Respondents 2 to 4 : Shri Adhe R.L.
h/f Shri Nimbalkar Aniruddha A.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 24, 2017

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PER COURT :-

1. This matter was heard for sometime.
2. After considering the facts of the case, prima facie, it appears that respondent No. 1 herein was prosecuting one limb of litigation originating from Dispute No. 74 of 1996 and another from Dispute No.554 of 2002.
3. Learned counsel for respondent No.1 submits, on instructions from his client present in the Court, that Appeal No.41 of 2015 in connection with the dismissal of Dispute No.554 of 2002 shall be withdrawn within two weeks from today and respondent No.1 would, thereafter, prosecute the Appeal that was tendered along with Misc. Application No.35 of 2016 and which is yet to be registered.

4. Learned counsel for the petitioner has no objection. He hastens to add that all objections and contentions about the delay and the merits with regard to the proposed Appeal of respondent No.1 shall be canvassed by the petitioner in the said proceedings.

5. Considering the above, this petition is disposed off by recording the statement of respondent No.1 that Appeal No.41 of 2015 pending before the Maharashtra Cooperative Appellate Court shall be withdrawn by him within two weeks and in any case, the said appellate Court shall dispose of the Appeal No.41 of 2015 as withdrawn. Consequentially, the file with regard to Dispute No.554 of 2002 filed by respondent No.1 shall stand closed.

6. Pursuant to the impugned order granting leave to appeal to respondent No.1, it be noted that the petitioner would be at liberty to contest the said proceedings on its merits, inclusive of the challenge to the delay caused by respondent No.1. In this context, all the contentions of the litigating sides are kept open.

(RAVINDRA V. GHUGE, J.)

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