

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

FIRST APPEAL NO. 3782 OF 2017

WITH
CA/3714/2016

MALTIBAI TANAJI PADAVI AND ORS
VERSUS
KILUBAI ALLEGED TANAJI PADAVI

...

Advocate for Appellants : Kale Mahesh P.
Savale Amit S. For R/sole

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CORAM : K.L.WADANE, J.
DATED : 5th October, 2017

O R D E R :

Heard Mr. Kale, learned counsel appearing for the appellants as well as Mr. Savale, learned counsel appearing for the respondent.

2. Mr. Savale, learned counsel has raised preliminary objection about maintainability of the First Appeal in this Court. According to him, the order passed by the learned Civil Judge, Senior Division, Shahada is on the basis of delegated powers by the District Judge. So, according to Mr. Savale, the appeal lies before the District Judge in view of provisions of Section 388 of the Indian

Succession Act, 1925.

3. Mr. Kale, learned counsel also agrees with this legal position indicated by Mr. Savale, and prayed for withdrawal of the present appeal with liberty to present it before the District Court, with exclusion of the time of present proceedings before this Court as per Section 14 of the Limitation Act.

4. In view of above, the appellants are permitted to withdraw the appeal for filing it before the District Court as per the provisions of Section 388 of the Indian Succession Act. Learned District Judge shall consider the time consumed in this Court after presentation of appeal as per the provisions of Section 14 of the Limitation Act.

5. Appeal stands disposed of as withdrawn.

6. Pending Civil Application stands disposed of.

(K.L.WADANE, J.)

dbm