

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

WRIT PETITION NO. 1820 OF 2017

Mr. Namdev Shankar Yadav and ..Petitioners.
Ors

Vs

Smt. Indira Ramesh Kini and .. Respondents
Ors.

Mr. Surel Shah a/w Amogh Singh i/b Tanu Khatri, Advocates for
Petitioners.

Ms. M.K. Eapen Advocate for Respondents no. 1 and 2.

Mr. Sandesh Patil, Advocate for Respondent no.3.

**CORAM : R.G.KETKAR,J.
DATE : 22/02/2017**

PC:

1. Heard Mr. Surel Shah, learned counsel for the petitioners, Ms. M.K.Eapen, learned counsel for respondents no. 1 and 2 and Mr. Sandesh Patil, learned counsel for respondent no.3 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as applicants, have challenged the Judgment and order dated 18.1.2017 passed by the learned 10th Jt. Civil Judge, Senior Division, Thane below Exhibit-94 in Regular Civil Suit No. 728 of 2013. By that order, the learned trial Judge rejected the application made by the applicants under Order I, Rule 10(2) of C.P.C. for their impleadment as party defendants.

3. After arguing the Petition for quite some time and upon taking instructions from the applicants, Mr.Shah seeks permission to withdraw the application Exhibit-94 as also this Petition with liberty to file appropriate application on behalf of all eligible slum dwellers under Order I, Rule 8 of C.P.C. for their impleadment in the suit. Mr. Patil has no objection. Ms Eapen submits that in case the Court is inclined to grant such liberty, all contentions of respondents no.1 and 2 including maintainability of such application may be kept open.

4. In view thereof, on the motion made by Mr. Shah, application Exhibit-94 as also the writ petition is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression of merits either way. All contentions of the parties in that regard are expressly kept open. If such application is filed, the learned trial Judge will decide the application in accordance with law uninfluenced by the observations made in the impugned order. Order accordingly.

(R.G.KETKAR, J.)

