

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 427 OF 2017
WITH
CIVIL APPLICATION NO. 1416 OF 2017

Kalawati Sudam Bhoir	...Appellant
<i>Versus</i>	
Manisha Enterprises & Ors	...Respondents

Mr CK Bhangoji, *for the Appellant.*
Mr Chetan Kapadia, *i/b NV Pawar, for Respondents Nos. 1 to 3.*
Smt Kalawati S Bhoir, *Appellant, with Mr Kailash Sudam Bhoir, son of the Appellant and Smt Geeta A Koli, daughter of the Appellant are all present in person.*

CORAM: G.S. PATEL, J
DATED: 9th June 2017

PC:-

1. The Appellant, Kalawati Sudam Bhoir, is present in Court. So is her son Kailash Sudam Bhoir and her daughter, Geeta A Koli.

2. The Appeal is directed against an order dated 31st March 2017 on the basis that Kalawati though shown as Plaintiff No. 2 had never signed the plaint and, therefore, was not properly a Plaintiff. She, therefore, disputes the Consent Terms that were taken on

record on 31st March 2017 and the order passed by the Judge on those Consent Terms.

3. The only oversight that I can tell on the part of the learned Judge is not separately noting the appearance of the two Plaintiffs. That is hardly a reason to upset the order. The order itself notes that the Appellant, Kalawati, was present at that time and that is not challenged in the Appeal Memo.

4. Before me in Court in answer to the questions I put to her, Kalawati confirms that she put her right thumb impression on each page of the Consent Terms presented to the Trial Court, and that she as a Plaintiff also sought a NOC from her previous Advocates.

5. Her son, Kailash Sudam Bhoir, was at first not present in Court but was reported to be outside. He was called to Court. He also confirmed having signed the Consent Terms and the request for NOC, and further that his mother had put her right thumb impression on both these documents.

6. It is in these circumstances that having taken instructions of the Appellant and her son Kailash Sudam Bhoir, their Advocate seeks leave to unconditionally withdraw the Appeal. The Appeal is dismissed as withdrawn. The Civil Application is dismissed as infructuous.

7. However, a copy of the Consent Terms shown to the Appellant and to her son in Court, and a copy of the NOC request

also shown to them in Court are taken on record and marked “X1” and “X2” for identification with today’s date.

8. The only other portion of the impugned order is as regards Clause 13 of the Consent Terms which the learned Judge excluded from his order. Mr Kapadia for Respondents Nos. 1 to 3 states that the cheques required by Clause 13 were already issued. Kalawati and Kailash did not deposit them. Mr Kapadia states that fresh cheques in the amounts as required by Clause 13 of the Consent Terms will be delivered by 12th June 2017. The Plaintiffs will deposit these by 13th June 2017.

9. List the matter on 16th June 2017 for the limited purpose of reporting compliance.

(G. S. PATEL, J)