

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7445 OF 2016

Smt. Namibai Wd./o Shankar Shinge & Ors.] Petitioners

Vs.

Smt. Prabhavati W/o Jagdish Patil & Ors.] Respondents

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Mr. Virendra Deshmukh, for petitioners.

Mr. Anant B. Bobe, for respondents No. 1 and 2.

Mr. Sanjay Gunjkar i/b Mr. Jaydeep Deo, for respondent No.3.

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CORAM : R.G. KETKAR, J.

DATE : 5TH JULY, 2017.

P.C.

Heard Mr. Deshmukh, learned Counsel for petitioners, Mr. Bobe, learned Counsel for respondents No. 1 and 2 and Mr. Gunjkar, learned Counsel for respondent No.3.

2. By this Petition under Articles 226 and 227 of the Constitution of India, petitioners have challenged the order dated 2nd March, 2016 passed by the learned 4th Joint Civil Judge, Thane below Exhibit 68 in Regular Civil Suit No. 1852 of 2012. By that order, application Exhibit 68 made by the petitioners was rejected. That application was made for setting aside the order dated 3rd August, 2010 passed on purshis Exhibit 34, thereby, permitting the applicants to withdraw Misc. Probate Application No. 167 of 2007 was read and recorded and said proceeding was disposed of.

3. By administrative order passed by the Hon'ble Chief Justice, this Petition was assigned to this Court. Accordingly, Petition was heard on 13th June, 2017 and 21st June, 2017 and was adjourned to 5th July, 2017 so as to enable Mr. Deshmukh to take written instructions as to whether petitioners wish to pursue Misc. Probate Application No. 167 of 2007 upon restoration or withdraw R.C.S. No. 1852 of 2012.

4. Mr. Deshmukh has tendered pursis dated 5th July, 2017 signed by petitioner No.2, Mr. Keshav Shankar Shinge, Power of Attorney on behalf of petitioners No. 1 and 5 to 8 and petitioner No.3, Mr. Dnyaneshwar Shankar Shinge, Power of Attorney on behalf of petitioners No. 1 and 5 to 8 and Smt. Chandana Krishna Shinge, petitioner No.4. Same is taken on record and marked 'X' for identification.

5. In the purshis, it is stated that petitioners do not wish to pursue Misc. Probate Application No. 167 of 2007 upon restoration and wish to pursue R.C.S. No. 1852 of 2012.

6. As the petitioners now intend to prosecute Regular Civil Suit No. 1852 of 2012, nothing survives in the challenge raised by the petitioners to the order dated 2nd March, 2016 passed by the learned Judge below Exhibit 68. Petition is accordingly disposed of and the petitioners will prosecute R.C.S. No. 1852 of 2012. Order accordingly.

[R.G. KETKAR, J.]