

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6348 OF 2016
WITH
CIVIL APPLICATION NO.2528 OF 2016

Rajnish Kumar Jain and others
versus
Thane Municipal Corporation and others

Petitioners
Respondents

Mr.Shardul Singh with Mr.Rahul Singh i/by DSK Legal for Petitioners
Mr.VN.Sagar, AGP, for Respondent no.2.
Mr.J.Shekhar with Akshay Kapadia i/by M/s.J.Shekhar & Co. for
Respondent nos.3 to 7.
Ms.Sheetal James, Applicant in CA No.2528/2016 is present.

CORAM : SHANTANU S. KEMKAR AND
PRAKASH D. NAIK, JJ.

DATE : 14th February 2017

PC :

1. After arguing for some time, learned counsel for Petitioners seeks leave to withdraw the petition with liberty to the Petitioners to file a fresh suit in regard to the grievances raised in this petition, as also to approach appropriate forum against the order of rejection of permission by Thane Municipal Corporation, which was passed in pursuance of the order passed by this Court on 14 October 2016.

2. With the aforesaid liberties viz. (i) to file a fresh suit, in regard to the grievances raised in this petition on the grounds raised in this petition, irrespective of the fact that RCS No.297 of 2016 was allowed to be withdrawn as we find that it was allowed to be

withdrawn in view of filing of this writ petition by Petitioners/Plaintiffs; and (ii) to challenge the order of rejection of permission passed by Thane Municipal Corporation before appropriate forum, we allow the Petitioners to withdraw the petition. All contentions in this regard are kept open to the parties including the intervenors to be raised before the Court/forum.

3. As a result of withdrawal of this petition, the Petitioners' undertaking dated 14 October 2016 that in case petition fails, they will remove the barbed wire fencing at their own costs, comes into operation. The Petitioners shall remove the barbed wire fencing at their own costs within four weeks from today, in case there is no order otherwise passed by any competent authority or Court of law in favour of Petitioners.

4. In view of withdrawal of Writ Petition itself, Civil Application No.2528 of 2016 does not survive and stands disposed of as such.

5. It is made clear that all contentions of both sides in regard to the grounds raised in the writ petition as also the grounds raised in the civil application are also kept open.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)

MST