

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

**WRIT PETITION NO.7439 OF 2013
with
CIVIL APPLICATION NO.2435 OF 2016
IN
WRIT PETITION NO.7439 OF 2013**

Shri Dilip Baburao Pagar ... Petitioner

Vs.

Shri Ishwar Ashok Thete & Ors. ... Respondents

Mr.P.B. Rahade i/b P.N. Joshi for the Petitioner
Mr.R.N. Gite for Resp. No.2

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 13, 2017**

P.C. :

1. This Writ Petition is filed against the judgment and order dated 4.5.2013 passed in Miscellaneous Civil Application No.40 of 2008 which was filed for condonation of delay of 2 years, 5 months and 7 days in filing the First Appeal against the judgment and decree passed in Special Civil Suit No.50 of 2001.
2. No writ petition lies against such order of rejection of application for delay condonation in a First Appeal and a Second Appeal is required to be filed.

3. In view of the above, the learned Counsel for the petitioner seeks leave to withdraw the Writ Petition with liberty to file Second Appeal. Further, the learned Counsel for the petitioner submits that by order dated 21.11.2015, the possession of the petitioner is protected and the same be continued for some time.
4. Leave granted to withdraw the Writ Petition. The protection granted by order dated 21.11.2015 is extended for a period of two weeks from today.
5. Writ Petition is disposed of accordingly.
6. Civil Application also stands disposed of.

(MRIDULA BHATKAR, J.)