

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3645 OF 2015

Laxman Baburao Jadhav and others ... Petitioners
Vs.
Samadhan Ramchandra Jadhav and others ... Respondents

Mr. M. S. Athalye for Petitioners.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 17, 2017

P.C. :

Heard Mr. Athalye, learned Counsel for petitioners at length.

2. By this Petition under Article 227 of the Constitution of India, petitioners, hereinafter referred to as 'plaintiffs', have challenged the judgment and order dated 23.04.2014 passed by the learned 10th Joint Civil Judge, Junior Division, Satara below exhibit-80 in Regular Civil Suit No.105 of 2011. By that order, the learned trial Judge allowed the application made by the defendants for discarding partition deed produced by the plaintiffs along with the list at exhibit-77/1.

3. Plaintiffs have filed affidavit of P.W.5 – Tukaram Tatyaba Jadhav on 24.07.2013. P.W.5 has produced document styled as Vatap Patra dated 06.09.2010.

4. After arguing the Petition for quite some time, Mr. Athalye submits that petitioners will not press this Petition if they are permitted to withdraw the affidavit of evidence of P.W.5 Tukaram Tatyaba Jadhav as also partition deed dated 06.09.2010 with liberty to file appropriate proceedings as also lead evidence. He submitted that all contentions of the respondents may be kept open in that regard.

5. In view thereof, on the motion made by Mr. Athalye, Petition is disposed of as not pressed and petitioners are permitted to withdraw affidavit of evidence of P.W.5 – Tukaram Tatyaba Jadhav as also document styled as 'Vatap Patra' dated 06.09.2010 with liberty as prayed for. Grant of liberty shall not be construed as an expression of merits either way. All contentions of the respondents on merits are kept open. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab