

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER No. 983 OF 2016
WITH
APPEAL FROM ORDER No. 984 OF 2016
WITH
CIVIL APPLICATION No. 1243 OF 2016 IN A.O. No. 984 OF 2016**

Sachin and Sameer Construction, through
Prop. Rajaram Sundarrao Sawant (Decd.)
through LRs Manisha Rajaram Sawant & Ors. ... Appellant/Applicant
Vs.

The Grampanchayat Malgun,
through Sarpanch & Ors. ... Respondents

Mr. P.M. Arjunwadkar, Advocate for the appellant/applicant.
Mr. Shashank C. Mangle, Advocate for respondent nos. 2 and 3.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 7th December, 2017.

P.C.:

In both these Appeals, the order dated 22nd August, 2016 passed by the learned District Judge-1, Ratnagiri thereby remanding the matters to the trial Court for fresh trial is under challenge.

2. The learned counsel for the appellant submitted that the appellant wants to withdrawn these two Appeals. The learned counsel submitted that in respect of the operative clause (6) of the order dated 22nd August, 2016 passed by the learned District Judge-1, Ratnagiri, the appellant/plaintiff was directed to deposit the amount received by him as per decree, within two months. The learned

counsel, on instructions, submitted that the appellant/plaintiff has not withdrawn any amount which is deposited by the respondent//defendant by virtue of the order passed by the Court dated 19th April, 2001.

3. The learned counsel for the respondent/defendant submitted that the fact of withdrawal of the said amount by the appellant/plaintiff is disputed.

4. The learned counsel for the appellant is allowed to withdraw these two Appeals from Order.

5. Appeals from Order are dismissed as withdrawn. Civil Application is also accordingly disposed of.

6. In view of the submissions in respect of withdrawal of the amount, the appellant/plaintiff is directed to file affidavit before the trial Court as to whether the appellant/plaintiff has withdrawn the amount deposited by the defendant or not. The trial Court to take note that the learned counsel for the appellant/plaintiff has made submission that the plaintiff has furnished bank guarantee. The trial Court to look into this issue and pass the orders accordingly.

(MRIDULA BHATKAR, J.)