

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

WRIT PETITION NO. 508 OF 2017

Shri Shankar Vijay Patil and Anr.

..Petitioners.

Vs

Shri Prakash Jaykumar Desai and
Ors.

.. Respondents

Mr.Manoj Patil, Advocate for Petitioners.
Mr.Vijay Killedar, Advocate for Respondent No.1.

**CORAM : R.G.KETKAR,J.
DATE : 01/02/2017**

PC:

1. Not on Board. At the request of Mr. Patil, taken up for admission. Heard Mr. Patil, learned counsel for the petitioners and Mr.Killedar , learned counsel for respondent no.1 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as 'defendants no. 8 and 9', have challenged the Judgment and order dated 30.3.2016 passed by the learned Jt. Civil Judge, Senior Division, Kolhapur below Exhibit 5 in Regular Civil Suit No.14 of 2016 as also the Judgment and order dated 29.11.2016 passed by the learned District Judge-6, Kolhapur in Misc. Civil Appeal No. 93 of 2016.

3. Matter was heard at length. Mr. Patil states that defendant no.9 is present in the court. He has tendered photocopy of the

identity card issued by Election Commission of India which is taken on record and marked X for identification.

4. Mr. Patil, upon taking instructions from defendant no.9 seeks permission to withdraw this petition. He submitted that the learned trial Judge may be directed to decide the suit on the basis of evidence on record and on its own merits and in accordance with law uninfluenced by the observations made in the impugned orders. He further submitted that all contentions of the parties may be kept open.

5. In view thereof, on the motion made by Mr. Patil, petition is allowed to be withdrawn and is dismissed as withdrawn. The learned trial Judge will decide the suit on the basis of the evidence on record and on its own merits and in accordance with law uninfluenced by the observations made in the impugned orders. All contentions of the parties on merits are expressly kept open. Order accordingly. Liberty is reserved to defendants no.8 and 9 to apply for expeditious disposal of the suit. If such application is made, the learned trial Judge will pass appropriate orders thereon.

(R.G.KETKAR, J.)