

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 WRIT PETITION NO. 12118 OF 2016
WITH
CA/6677/2018
IN
WP/12118/2016

GOUSMOHIYODDIN TAMIJODDIN FARROQUI AND ORS.
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

.....

Mr. Pradeep Deshmukh h/f Mr. Y.P.Deshmukh,
Advocate for Petitioners.

Mr. P.N.Kutti, A.G.P for R – 1, 3 & 4.

Mr. A.D.Aghav, Advocate for R – 2.

Mr. H.P.Jadhav, Advocate for R – 5.

Mrs. M.D.Thube - Mhase, Advocate for R – 6 to 10.

Mr. D.R.Bhadekar, Advocate for R – 11.

.....

CORAM: V.L.ACHLIYA, J.

DATE : 11/09/2018

.....

ORAL ORDER :

1. Learned counsel for respondent Nos. 6 to 10 submits that in view of recent amendment made by the State Govt. to delete Section 9-A of C.P.C. to be operated in the State of Maharashtra, the challenge raised in the petition no more survives and petition is liable to be dismissed.

2. On the other hand, learned counsel for the petitioners submits that the challenge raised in the petition is two fold. Beside raising objection u/s 9-A of C.P.C., the petitioners have also raised objection under Order 7 Rule 11 of C.P.C. read with Section 2 of Hyderabad Abolition of Inams and Cash Grants Act, 1954. In this back-ground, learned counsel submits that though the challenge raised u/s 9-A of

C.P.C. no more survives, still the petitioners can challenge the order refusing to reject the plaint Under Order 7 Rule 11 of C.P.C. Since the remedy by way of revision is available to challenge the order rejecting the application to reject the plaint under Order 7 Rule 11 of C.P.C., learned counsel urge to allow the petitioners to withdraw petition with liberty to file revision petition by continuing interim relief for a period of four weeks.

3. In view of above, the petitioners are allowed to withdraw the petition with liberty as prayed for. Interim order operating to continue till 05/10/2018. While considering the delay caused in filing revision petition, the period spent in prosecuting the remedy by way of petition may be considered.

4. The petition be marked as disposed of as withdrawn with liberty as prayed for.

5. Learned counsel for the respondent Nos. 6 to 10 submits that the petitioners will abide by the earlier statement made for not to create third party interest for a further period of three weeks from the date of this order.

[V.L.ACHLIYA]
JUDGE