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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4794 OF 2015

WITH
CIVIL APPLICTION NO.2391 OF 2016
IN
WRIT PETITION NO.4794 OF 2015

Ramchandra B. Gunjal, since deceased
through His L.Rs. & Ors.

...Petitioners

V/s.

Rahul R. Bhavsar & Anr.

...Respondents

Mr.Anilkuar K. Patil for the Petitioners.

Mr.Vaibhav Ugale for the Respondent Nos.1 and 2.

CORAM : R.D. DHANUKA, J.

DATE : 27TH AUGUST, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 19th March, 2015 passed by the learned District Judge – 2, Malegaon dismissing the application for condonation of delay filed in the Miscellaneous Civil Application No.94 of 2012. In my view, the remedy of the petitioners against the order passed by the learned District Judge – 2, dismissing the application for condonation of delay in Miscellaneous Civil Application No.94 of 2012 will be by way of second appeal.

2. Mr.Patil, learned counsel appearing for the petitioners at

this stage seeks liberty to withdraw this writ petition with liberty to file the second appeal within four weeks from today. The statement is accepted.

3. Learned counsel appearing for the respondent nos.1 and 2 states that his clients would not raise any issue of limitation if the second appeal is preferred by the petitioners within four weeks from today. The statement is accepted.

4. The writ petition is dismissed as withdrawn with liberty as prayed. No order as to costs.

5. Insofar as the Civil Application No.2391 of 2016 is concerned, in view of withdrawal of the writ petition, this civil application does not survive. The petitioners would be at liberty to file a similar civil application in the second appeal, if so advised.

(R.D. DHANUKA, J.)