

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.300 OF 2018

Kashinath R. Kolwankar ... Petitioner
Vs.
Sunanda Ramakant Desai and others ... Respondents

Mr. Madhav J. Jamdar for Petitioner.
Mr. A. A. Kocharekar for Respondent No.2.

CORAM : R. G. KETKAR, J.
DATE : JULY 24, 2018

P.C. :

Heard Mr. Jamdar, learned Counsel for the petitioner and Mr. Kocharekar, learned Counsel for the respondent No.2 at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 16.03.2017 passed by the Appellate Bench of the Small Causes Court at Bombay below exhibit-19 in Appeal No.245 of 2008 arising from R.A.E. & R. Suit No.46/83 of 1992. By that order, the Appellate Court rejected the application made by the petitioner / original defendant for amending the additional written statement of June 2004 as per the Schedule.

3. The matter was argued at length on 23.07.2018 and was kept today for passing orders.

4. Mr. Jamdar submits that petitioner is 90 years old. His son Hemant K. Kolwankar is present in the Court. He has tendered photocopy of his Aadhar Card as also photocopy of petitioner's Aadhar Card, which are taken on record and marked 'A colly.' for identification. He has also tendered photocopy of communication of the petitioner instructing him to withdraw the Petition, which is taken on record and marked 'B' for identification.

5. In view thereof, on the motion made by Mr. Jamdar, Petition is allowed to be withdrawn and is disposed of as such. It is, however, expressly made clear that where a decree is appealed from by the petitioners, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

6. Liberty to apply to the Appellate Court to decide the Appeal in a time bound manner. If such application is moved, the Appellate Court will pass appropriate order. Order accordingly.

(R. G. KETKAR, J.)

Minal
Sandip
Parab

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by Minal Sandip
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