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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 950 OF 2016
WITH
CIVIL APPLICATION No. 1193 OF 2016

M/s Goodwill Developers & Ors. ... Appellants
Vs.
Balasaheb Vithal Chinchawade & Ors. ... Respondents

Mr. S. S. Kanetkar, for the Appellants.

Mr. A. V. Anturkar, Sr. counsel I/b Avinash Avhad, for the
Respondent Nos. 1 to 5, 11, 13, 14.

Mr. Yogesh Chinchawade – Present.

CORAM : V. M. DESHPANDE, J.

DATE : JUNE 25, 2018

PC :-

1. Heard the learned counsel for the Appellants / original defendants and the learned senior counsel for Respondent Nos. 1 to 5, 11, 13 and 14 / original plaintiffs.

2. This appeal is carried by original defendants before this Court, challenging the judgment and order dated 24th June, 2016 passed in Special Civil Suit No. 1246 of 2013 whereby the

learned Judge of the Court below allowed the application for injunction (Exhibit 5) filed on behalf of the original plaintiffs, thereby restraining the original defendant Nos. 1 to 5, and 6 to 17 from changing nature of the suit property, and also restraining them from carrying further construction over the suit property till disposal of the suit.

3. After hearing the learned counsel for the parties, when this Court indicated that the Court may pass the order for dismissal of the appeal itself, the learned counsel for the Appellants, on instructions from his client, viz. one of the partners of M/s. Goodwill Developers i.e. Yogesh Chinchawade, submits that he has instructions to withdraw the present appeal, and he therefore, seeks leave to withdraw the appeal. Statement is accepted. This statement made by the learned counsel for Appellants is not opposed by the learned senior counsel appearing for the Respondent Nos. 1 to 5, 11, 13 and 14, who submits that there is another suit, Special Civil Suit No. 1164 of 2016 in between the same parties in respect of the same

property, which is pending before some other Court, that can also be tried and disposed of alongwith Special Civil Suit No. 1246 of 2013. Hence, the following order:

- (i) Appeal is allowed to be withdrawn and accordingly disposed of with no order as to costs;
- (ii) The impugned order dated 24th June, 2016 passed by the learned Civil Judge, S. D. Pune in Special Civil Suit No. 1246 of 2013 is hereby confirmed. This order shall remain in force till decision of the suits in the trial Court;
- (iii) 4th Additional Judge, Small Causes Court & Jt. C.J.S.D. Pune shall try and dispose of Special Civil Suit No. 1246 of 2013, on merits and in accordance with law, within a period of six months from the date of receipt of this order;
- (iv) The learned Judge shall also try and dispose of Special Civil Suit No. 1164 of 2016 alongwith Special Civil Suit No. 1246 of 2013 after getting it

tagged;

- (v) It is made clear that plaintiffs shall not drag the litigation by moving interim application since appeal is withdrawn by the appellants for disposal of the suits within a span of six months;

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath