

Sarnobat

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

**APPEAL FROM ORDER NO. 690 OF 2017
ALONGWITH
CIVIL APPLICATION NO. 908 OF 2017**

Bipin Chunilal Kamdar (Fifadara). ... Appellant
Vs.
Bhupendra Chunilal Kamdar (Fifadara),
& Ors. ... Respondents.

Mr. J. S. Kini a/w Ms. Sapna Kuishinappa I/by Advocate Suresh Dubey,
for the Appellant.
Ms. Madhumitha I/b. Advaya Legal, for the Respondent No.2 and 6 to 9.
Mr. Bipin C. Kamdar, Appellant present.

CORAM : V. M. DESHPANDE, J.

DATE : 12th JULY, 2018.

P. C. :

1. Heard Shri Kini learned counsel for the appellant in extenso. He tried to put forth the case before this Court with vehemence to attack the impugned order passed by the learned Judge City Civil Court, Mumbai. After hearing the learned counsel in extenso, when this Court expressed its opinion that the Court is not inclined to grant any relief in favour of the appellant as prayed for, Shri Kini, learned counsel for appellant on instructions from the appellant submits that, he wish to withdraw the present appeal. The appellant is also personally present in the Court. He submits that in that case, direction may be given to the

Trial Court for expeditious decision of the Suit No. 2136 of 2015 looking to the fact that the flat in question is available for the residence.

2. The dispute is between two brothers in respect of a document which is admittedly a registered document. Admittedly, after redevelopment by the original defendant No. 9, the premises are constructed. The question is of whether the appellant/defendant has an exclusive tenancy right or the plaintiff is also having 50% right. In that view of the matter the prayer made by Shri Kini for expeditious disposal of the Suit can be granted. Therefore, I pass the following order;

ORDER

- I) The Appeal is disposed of as withdrawn as prayed by the defendant through his counsel.
- II) The order dated 16th September, 2017 passed by City Civil Court, Greater Mumbai in Notice of Motion No. 2867 of 2017 does not require any interference.
- III) The Court below is directed to try and dispose of the Suit No. 2136 of 2015 as expeditiously as possible and in any case within nine months from today after the pleadings being completed and after giving opportunity to all the parties to adduce respective evidence.
- IV) With this the appeal is disposed of. All the Civil

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Applications are also disposed of.

[V. M. DESHPANDE,J.]