

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

**CIVIL APPLICATION NO. 4689 OF 2016
IN
FIRST APPEAL NO. 39 OF 2015**

Mohd Yahya s/o. Mohd Ayub & Ors.Applicants

V/s.

Abubakar s/o. Jan Mohd (since deceased
through legal heirs) :

Mrs. Nasimabanoo w/o. Abubakar & Ors.Respondents

Ms. Rupali L. Dhivar for the applicants.

Mr. Vaibhav V. Sugdare a/w. Nilesh S. Patil for respondents and
appellants in FA No.39 of 2015.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 22nd MARCH, 2018.**

P.C.:

. Heard the learned counsels for the respective parties.

2. By this application, the applicant has sought enhancement of the amount to be deposited by the respondent, as per the order dated 26th August, 2015 passed in Civil Application No.3366 of 2014 in First Appeal No.39 of 2015.

3. Ms. Rupali Dhivar, learned counsel for the applicants submits that the S.C. Suit No.7105 of 2000 was decreed in favour of the applicants/plaintiffs in the suit. She claims that the respondents are

occupying the premises without any right. She has further submitted that by order dated 26th August, 2015, this Court had directed the respondents to deposit an amount of Rs.5,000/- per month from the date of judgment with liberty to the applicants to withdraw 50% of the amount deposited towards arrears and that further amount to be deposited on monthly basis. She has submitted that the respondents/defendants have now started conducting business in the said suit premises. In the course of hearing, the learned counsel for the respondents further submitted that the appeal itself can be disposed of expeditiously.

4. In view of the above, learned counsel for the applicant seeks leave to withdraw the application. Leave is granted. Civil Application is dismissed as withdrawn. Considering the nature of the controversy between the parties, hearing of the appeal is expedited.

(SMT. ANUJA PRABHUDESSAI, J.)