

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 13174 OF 2017**

Narendra Ganpatlal Dave & anr. ...Petitioners

**Versus**

M/s. Mark Constructions & ors. ...Respondents

Mr. Vivek K. Gupta, for the Petitioners.

Ms. Mitali Shah, I/b Mr. Vaibhav Mehta & Asso., for  
Respondent nos.1 and 2.

Mr. Piyush M. Shah, for Respondent no.3.

**CORAM:** M. S. SONAK, J

**DATED:** 18<sup>th</sup> December, 2018

**PC:-**

1. After this Writ Petition was argued for some time, the learned Counsel for the petitioner on the basis of instructions from the petitioner seeks leave to withdraw this petition with liberty to challenge the impugned orders in the main suit i.e. L.E. & C. Suit No.58/65 of 2014 is decided against the petitioners and the petitioners decided to challenge such final order/decrece.

2. The request made by the learned Counsel for the petitioners is reasonable and also in cord with the provisions under Section 105 of CPC. Therefore, there can be no difficulty in accepting this request.

3. The learned Counsel for the petitioners further points out that the evidence of the petitioners has already commenced. He further submits that the respondents are unnecessarily

delaying the trial before the learned Trial Court. The learned Counsel for respondent no.3 clarifies that respondent no.3 is not delaying the trial, but it is possible that respondent nos.1 and 2 are delaying the trial. The learned Counsel for the petitioners states that even respondent no.4 is delaying the trial. Since, the evidence has already commenced, the Trial Court should not grant any unnecessary adjournments which would cause delay in trial.

4. Subject to the aforesaid observations, leave is granted to withdraw this petition with liberty as prayed for. This petition is accordingly disposed of as withdrawn with liberty as prayed. All contentions of all parties are kept open.

**[M. S. SONAK J.]**