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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2687 OF 2017

Mrs. Surekha Hanmantrao Pawar ... Petitioner.
V/s.
Mr. Sambhaji Dagdu Bibwe and Ors. ... Respondents.

Mr. Dipak B. Rane I/b. Mr. Jitendra M. Pathade for the Petitioner.
Mr. Y.S. Khochare, AGP for the Respondent Nos.11 to 18.

CORAM : A.S.OKA AND M.S. SONAK, JJ.

DATE : 7th SEPTEMBER 2018.

P.C. :

1 Time is sought on behalf of the petitioner. There are three substantive prayers in the petition which read thus :-

- “(a) Hon'ble court writ, order, direction may kindly quash and set aside judgment and order dated 28/10/2016 passed by learned Respondent No.15.
- (b) Hon'ble court by appropriate writ, order, direction may kindly direct the Respondent No.11 to decide the appeal dated 3rd May 2011 filed by petitioner, as expeditiously as possible as this Hon'ble Court may deem fit and proper in the interest of justice.
- (c) Hon'ble court by appropriate writ, order, direction may kindly direct the Respondent No.14 to decide the appeal dated 21/11/2016 filed by petitioner, as expeditiously as possible as this Hon'ble Court may deem fit and proper in the interest of justice.”

2 Against the order dated 28th October 2016 an appeal dated 21st November 2016 was filed by the petitioner which is the subject matter of prayer clause (c). The learned AGP has produced on record a copy of the roznama of the appeal dated 21st November 2016. The roznama is taken on record and marked as “R1” for identification. He also tenders across the bar an application dated 10th July 2018 submitted by the petitioner and her advocate in the said appeal. The application is taken on record and marked as 'R-2' for identification. The said application is for seeking permission to withdraw the said appeal. Accordingly, roznama dated 10th July 2018 records that the appeal was allowed to be withdrawn. Therefore, prayer clause (c) does not survive. Even prayer (a) will not survive as the challenge in appeal dated 21st November 2016 was to the order dated 28th October 2016.

3 As regards prayer clause (b), the learned AGP states that the record of the appeal dated 3rd May 2011 was destroyed in the fire in Mantralaya. He states that if a true copy of the said appeal is produced by the petitioner, the file of the appeal can be reconstructed. He has placed on record a letter dated 2nd May 2017 addressed by the Desk Officer of Revenue and Forest Department to the District Collector calling upon the District Collector to procure a copy of the appeal from the petitioner to enable the State to reconstruct the file. The said letter is taken on record and marked “R-3” for identification.

4 Hence, we dispose of the petition by passing the following order :-

ORDER

- (i) Prayers (a) and (c) do not survive for the reasons recorded above. As regards prayer clause (b), we direct the petitioner to submit a true photocopy of the office copy of the appeal dated 3rd May 2011 with the Revenue and Forest Department of the State Government within a period of one month from today. Even copies of the annexures/ accompaniments to the appeal shall be also filed along with the copy of the memo of appeal;
- (ii) As soon as the aforesaid documents are filed by the petitioner, the State Government will take immediate steps to reconstruct the file of the appeal;
- (iii) Considering the fact that the appeal is of the year 2011, we direct the State Government to decide the said appeal in accordance with law within a maximum period of four months from the date on which the aforesaid documents are furnished by the petitioner;
- (iv) The petition is disposed of on above terms.

(M.S. SONAK, J.)

(A.S.OKA, J.)