

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2358 OF 2017

Shakuntala Alias Minakshi
Mahadeo Bhinge .. Petitioner
vs.
Somling N. Gadhawe and ors. .. Respondents

Mr. A.P. Kulkarni for the Petitioner.
Mr. S.S. Prabhune for Respondent Nos.1, 3A and 3B.
Ms Manjiri S. Parasnis for Respondent No.2.

CORAM : M. S. SONAK, J.
DATE : 28 MARCH 2018.

P.C. :-

1] Learned counsel for the respondents submit that there is absolutely no jurisdictional error in the order which is impugned in this petition and therefore, this petition may be dismissed with costs.

2] On perusing the impugned order, it is seen that the learned trial Judge has dismissed the petitioner's application seeking for leave to withdraw the suit for partition and seeking further liberty to institute a fresh suit merely on the ground that the application was entirely vague and bereft of any particulars. On perusal of the application, it does appear that the application is vague and bereft of any particulars. The application, no where demonstrates what was the formal defect in the suit as instituted so as to seek its withdrawal coupled with liberty to institute a fresh suit. Accordingly, there is no

reason to interfere with the impugned order. However, merely because the impugned order is upheld, this shall not come in the way of the petitioner filing a fresh application seeking for withdrawal of the suit with liberty to institute a fresh suit by stating all particulars, as are necessary to be stated in terms of Order 23 of C.P.C. Such application, if made within a reasonable period, will be disposed of by learned trial Judge , in accordance with law and on its own merits. All contentions of all parties are also kept open.

3] With liberty as aforesaid, this petition is disposed of. There shall be no order as to costs.

(M. S. SONAK, J.)