

pmw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORIGINAL SIDE

REVIEW PETITION (L) NO.64 OF 2018  
IN  
WRIT PETITION NO.1987 OF 2015

Arun Raghunath Palav and Ors.

... Petitioners

Vs.

The Municipal Corporation of Greater Mumba and Ors. ... Respondents

Mr. R.V. Govilkar and Ms. Shaba Khan I/b. Govilkar and Associates for the  
Petitioners.

Ms. Pooja Yadav for the Respondent – BMC.

Mr. G.B. Walawalkar I/b. Mr. S.P. Thorat for the Respondent No.4 – SRA.

Mr. L. T. Satelkar, AGP for the Respondent No.5.

Digitally  
signed by  
Pallavi  
Mahendra  
Warganekar  
Date:  
2018.09.25  
15:12:08  
+0530

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 21<sup>st</sup> SEPTEMBER 2018.

[In Chamber at 2.40 pm]

P.C. :

1           The review petition proceeds on the footing that L.C. Suit No.3014 of 2013 is not pending. When we made a specific query to the learned counsel appearing for the review petitioner as to whether there is any specific order passed by the trial Court regarding disposal of the said suit, he states that there is no such order. However, he urges that in view of the decision of the learned Single Judge of this Court in the case of Anil Dinmani Shankar Joshi and Anr. vs. Chief Officer, Panvel Municipal Council and Anr.<sup>1</sup>, the trial Court may not treat the suit as pending.

2           Firstly, we do not know whether any application made by the plaintiffs in the said suit for withdrawal of the suit is pending. Secondly, there is no order passed of withdrawal of the suit. On page 32 is a copy of

the order passed in the suit which shows that in fact on 13<sup>th</sup> July 2018, the learned trial Judge treated the reply of the Municipal Corporation as a written statement of the Municipal Corporation and in fact, the suit was adjourned for settlement of issues on 17<sup>th</sup> September 2018. In view of the order dated 13<sup>th</sup> July 2018 fixing the suit for settlement of issues, we cannot accept the contention of the learned counsel appearing for the review petitioner that the suit is not pending. Even assuming that the application for withdrawal is on record, the fact that on 13<sup>th</sup> July 2018, the trial Court has fixed the suit for framing of issues on 17<sup>th</sup> September 2018 shows that the trial Court has treated the suit as pending. Hence, no case is made out for review. Accordingly, review petition is rejected.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)