

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1263/2019

Santosh Namdeo Jadhav & Ors.

... Petitioners

V/s.

Shankar Trimbak Gole

... Respondent

Mr. Girish R. Agrawal for the Petitioners

Mr. Sachin Gite for Respondent No.1.

**CORAM: K.K. TATED, J.**

**DATED : FEBRUARY 5, 2019**

**P.C. :**

1 Heard. By this petition, the Petitioner – Plaintiff challenges the order dated 30.11.2018 passed by the learned District Judge-1, Niphad below Exhibit- 5 in Misc. Civil Appeal No.13/2018 preferred by the Respondent – Defendant confirming the order dated 30.01.2018 passed by the Jt. Civil Judge, Junior Division, Niphad below Exhibit-5 in Regular Civil Suit No. 13/2018.

2 During the course of arguments, when this court declined to entertain the Writ Petition on the ground that the Petitioner – Plaintiff has filed the suit for declaration as owner on the basis of adverse possession, the learned counsel for the Petitioner – Plaintiff, after taking instructions from his client makes a statement that his client wants to delete said prayer clause in the suit itself. He further submits that the Petitioner will make an appropriate Application before the Trial Court to that effect. He

further submits that the Petitioner may be permitted to make fresh Application for an order of injunction on the basis of amended plaint, which shall be decided by the Trial Court on merits, after hearing the parties. He further submits that all contentions of the parties be kept open. To that effect, he has given in writing. Same is taken on record and marked "X" for identification.

3 The Writ Petition stands disposed of as withdrawn with liberty as prayed for.

4 It is made clear that if such an Application is made by the Petitioner – Plaintiff before the Trial Court for deleting the prayer in respect of the declaration of ownership on the basis of adverse possession, it shall be decided immediately.

**(K. K. TATED, J.)**