

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 5376 OF 2019

Smt. Sadhana Manohar @ Mannalal Redasani

And another

...Petitioners

Versus

Balkrishna Shankar Likhite (deceased)

through L.Rs. & another.

..Respondents

....

Ms. Gauri Godse, Advocate for the Petitioners.

....

CORAM : R. G. KETKAR, J.

DATE : 04th JUNE, 2019

P.C.

1. Not on board. At the request of Ms.Godse taken up in the production board.
2. Heard Ms. Gauri Godse, learned counsel for the petitioners, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as defendants No.1/1 and 1/2, have challenged the order dated 5.1.2019 passed by the learned 2nd Jt. Civil Judge, Senior Division, Kalyan below Exhibit-96 in R.C.S. No.141/1999. By that order the learned trial Judge rejected the application made by the defendants under Order VI Rule 17 of Code of Civil Procedure, 1908 (for short, 'C.P.C.') for amending the written statement.

4. After arguing the petition for quite some time, Ms. Godse, on written instructions from the petitioners, submits that the petitioners may be permitted to withdraw this petition and it may be clarified that where a decree is appealed from by the petitioners, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.. She has tendered a photocopy of letter dated 4.6.2019 addressed to her by the petitioners instructing her to withdraw present writ petition. Same is taken on record and marked 'X' for identification.

5. In view thereof, on the motion made by Ms. Godse, the petition is allowed to be withdrawn and is disposed of as such with no order as to costs. It is made clear that where a decree is appealed from by the petitioners, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.. Order accordingly.

(R. G. KETKAR, J.)