

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.6782 OF 2017

Parshuram Gopal Kule	]	Petitioner
Vs.		
Prabhatilal Jalimsingh Yadav	]	
(since deceased through legal heirs)	]	
Sushila Prabhatilal Yadav and Ors.	]	Respondents

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Mr. Siddhesh Pilankar i/b Uday P. Warunjikar, Advocate for the Petitioner.
Mr. P.S. Dani, Senior Advocate i/b V.K. Chaudhary i/b Nishad Jitesh Premnath, Advocate for the Respondents.

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CORAM : R.G. KETKAR, J.

DATE : 6th JUNE, 2019.

P.C:

Heard Mr. Pilankar, learned Counsel for the petitioner and Mr. Dani, learned Senior Counsel for the respondents.

2. This Petition takes exception to the order dated 13th April, 2016 passed by the learned trial Judge below Exhibit 50 in R.A.E & R Suit No.915/1450 of 2003. By that order, the learned trial Judge rejected the application made by the petitioner for temporary injunction. Mr. Pilankar states that son of the petitioner Ramdas Parshuram Kule is present in the Court. He has tendered photo copy of his 'Aadhar Card', which is taken on record and marked 'X' for identification.

3. As the impugned order rejects the application made by the petitioner for temporary injunction, Mr. Pilankar seeks permission to withdraw

the Petition with liberty to file appeal under Order-XLIII, Rule-1(r) of the Code of Civil Procedure, 1908 (for short 'C.P.C'). He further submits that time spent by the petitioner in prosecuting this Petition from 12th June, 2017 till date may be excluded while considering the issue of limitation. He assures that within 3 weeks from today, the petitioner will file appeal.

4. In view thereof, on the motion made by Mr. Pilankar, Petition is allowed to be withdrawn with liberty as prayed for and as such is disposed of. If within 3 weeks from today, the petitioner files the appeal under Order-XLIII, Rule-1(r) of the Code of Civil Procedure, 1908, time spent by the petitioner in prosecuting this Petition bona fide from 12th June, 2017 till date shall be excluded while considering the issue of limitation. It is made clear that I have not examined merits of the case. All contentions of the parties on merits are expressly kept open. Order accordingly.

[R.G. KETKAR, J.]