

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6856 OF 2019

Karanath Sankaran Anilan and another ... Petitioners
Vs.
Maruti Laxman Koli (decd) through his
legal heir Yashwant Maruti Koli ... Respondent

Mr. Rahul Singh a/w. Ms Pranali Raut i/b. Legal Catalyst for Petitioners.

CORAM : R. G. KETKAR, J.
DATE : JULY 25, 2019

P.C. :

Heard Mr. Singh, learned Counsel for the petitioners at length.

2. By this Petition under Article 227 of the Constitution of India, petitioners have challenged the order dated 24.10.2018 passed by the learned trial Judge below exhibit-59 in Miscellaneous Application No.586 of 2009. By that order, the learned trial Judge rejected the application made by the petitioner No.2 for permitting her to take her examination-in-chief on record. In paragraph 4 of application at exhibit-59, petitioners came with the following case:

“4. The Applicants state that thereafter the applicant NO.1 became very seriously sick. Applicant No.1 is seriously suffering from physical and mental ailment. Applicant No.1 is also suffering from High Blood Pressure. In the situation, he is under continuous observation and treatment of the doctors. The doctors are always instructing to lead a tension free day to life and prescribed accordingly for future life.”

3. The matter was heard on 18.07.2019 when this Court indicated that in view of the vague assertions made in the application, this Court is not inclined to interfere with the impugned order. The matter was kept today for passing order.

4. Upon taking instructions, Mr. Singh seeks permission to withdraw application exhibit-59 with liberty to file fresh application giving necessary details as regards physical and mental condition of the petitioner No.1 with supporting documents.

5. In view thereof, on the motion made by Mr. Singh, Petition is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression of merits either way. All contentions of the respondent, including maintainability of such application, are expressly kept open. Petition is disposed of accordingly.

(R. G. KETKAR, J.)

Minal Parab