

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.158 OF 2017
WITH
CIVIL APPLICATION NO.376 OF 2017**

Manorama Damodharsingh Pardeshi and Ors. ... Appellants

Vs.

Ragini Shivilal Pardeshi and Ors. ... Respondents

.....

Mr. Ashok B. Tajane for the appellants.

Mr. Girish R. Agrawal for respondent Nos.1 to 6.

.....

CORAM : M. S. KARNIK, J.

DATE : 11th OCTOBER, 2019.

P. C.:

1. Heard learned counsel for the appellants and learned counsel for the respondents.

2. Learned counsel for the appellants seeks leave to withdraw the Appeal with liberty to file the Review Petition before the First Appellate Court.

3. Learned counsel for the respondents opposed the request made as according to him, this is only an attempt to protract the execution of the decree.

4. Considering the request made, the Appeal is allowed to be withdrawn with liberty to file the Review Petition. If Review Petition is filed the same shall be considered in accordance with law.

5. It is made clear that I have not considered the Appeal on merits and all contentions are kept open.

6. Only by way of indulgence the possession not to be taken for a period of two weeks from today. The time bonafide spent in pursuing the Second Appeal may favourably be considered by the First Appellate Court in case the application for condonation of delay in filing the Review Petition is made. In the event the delay is condoned by the First Appellate Court, the First Appellate Court is requested to hear the Review expeditiously considering the peculiar facts of the case.

7. The appellants will be entitled to refund of court fees as per the Rules.

8. The Second Appeal is allowed to be withdrawn with no order as to costs with liberty as prayed for.

9. In view of the disposal of the Second Appeal, nothing survives for consideration in the Civil Application. The Civil Application is disposed of accordingly.

(M. S. KARNIK, J.)