

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 9188 OF 2018

Smt. Bharti Motiram Zope
And others.

...Petitioners

Versus

Mrs. Jyoti Suresh Vora

...Respondents

....

Mr. Deven A. Jagdeo, Advocate for the Petitioners.

Mr. Nandakumar G. Karekar, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 09th JANUARY, 2019

P.C.

1. Heard Mr. Deven A. Jagdeo, learned counsel for the petitioners and Mr. Nandkumar G. Karekar, learned counsel for respondent, at length.

2. This petition takes exception to the order dated 29.6.2018 passed by the learned Judge, Court Room No.32 of the Small Causes Court at Mumbai, Bandra Branch below Exhibit-79 in R.A.E. Suit No.469/925 of 2008. By that order, the learned trial Judge rejected the application made by petitioner No.2 for stay of the proceedings.

3. Mr. Jagdeo seeks permission to withdraw this Petition with liberty to file appeal along with application for interim relief before the

Appellate Bench of the Small Causes Court, Mumbai. He assures that within two weeks from today, the petitioners will file appeal along with application for interim relief and serve copy on the other side within the same period. He submits that the petition was instituted in this Court on 7.8.2018. As the petitioners were prosecuting this Petition bonafide, the time spent by the petitioners in prosecuting this petition from 7.8.2018 till today may be excluded while considering the issue of limitation.

4. In view thereof, on the motion made by Mr. Jagdeo, the Petition is allowed to be withdrawn with liberty as prayed for and is disposed of as such. If the petitioners institute appeal along with application for interim relief within two weeks from today, the time spent by them in prosecuting this petition from 7.8.2018 till date shall be excluded while considering the issue of limitation as they were prosecuting this Petition bonafide. The Appellate Court will decide the application for interim relief on its own merits and in accordance with law. All contentions of the respondents including maintainability of the appeal are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)