

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 CRA NO.29 OF 2021

VIKAS NIVRUTTI SOLUNKE
VERSUS
SHUBHANGI VIKAS SOLUNKE

...
Advocate for Respondent : Mr. U. B. Bilolikar

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CORAM : AVINASH G. GHAROTE, J.

DATED : 1st JULY, 2021.

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PER COURT :

1. On the last date when the matter was listed on 29/06/2021, after extensive arguments by Mr. Bilolikar, learned counsel for the respondent, when the validity of the very filing of the suit itself, was questioned on account of the fact, that what was challenged in the suit before the trial court, was a compromise decree by the parties, and in the light of the bar as contained in Sub-Rule 3-A of Order 23 of CPC, and the dictum of the Hon'ble Apex Court in ***R. Janakiammal vs. S.K. Kumaraswamy (deceased), Civil Appeal No. 1537 of 2016 decided on 30/06/2021*** faced with the same, learned counsel Mr. Bilolikar for the respondent, had sought time to seek instructions in that regard.

2. Today an affidavit has been filed by Mr. Bilolikar, learned counsel indicating that the respondent intends to withdraw RCS No. 366 of 2019 with a liberty to file an application under Order 23 Rule 3 for setting aside the decree passed in the earlier HMP No. 130 of 2017. The said statement is accepted. The according request by way of application, be made to the 2nd Joint Civil Judge Senior Division, Nanded in RCS No. 366 of 2019, who upon receipt of such an application shall grant permission to withdraw with liberty to file appropriate proceedings before the appropriate forum, as per law to raise a challenge to the consent decree dated 19/06/2018 as passed in HMP NO. 130 of 2017.

3. The CRA is accordingly disposed of in the above terms.

(AVINASH G. GHAROTE, J.)

vsm/-