

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

**909 WRIT PETITION NO.8838 OF 2017
WITH CA/1086/2021 IN WP/8838/2017**

**PRAMOD SHIVLING MAPARI AND OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER AHMEDNAGAR AND OTHERS**

Mr. Nikhil S. Jaju, Advocate for the petitioners
Mr. N. B. Patekar, Advocate for the respondent Nos. 3
Mr. R. D. Sanap, AGP for the respondent/State

CORAM : N. J. JAMADAR, J.

DATE : 12-03-2021

P. C.

. Heard learned counsel for the parties.

2. After arguing for sometime learned counsel for the petitioners seeks leave to withdraw the petition with liberty to institute a suit in respect of the same cause. Learned counsel for the petitioners further submits that since this court has granted interim protection by order dated 17-07-2017, same may be continued for six weeks so as to facilitate the petitioners to institute the suit and move the court for appropriate relief.

3. In the backdrop of the nature of the controversy, it seems that a determination by the Civil Court would be an effectual adjudication. Hence, the leave to withdraw the petition is granted

with liberty to institute the suit, which is otherwise statutorily provided for. Prayer of interim protection, in the circumstances of the case also appears justifiable. Hence, the interim protection granted by this court by order dated 17-07-2017, in terms of prayer clause-C shall continue to operate for a period of six weeks from today. Prayer clause-C reads as under:

“Pending hearing and final disposal of the writ petition, the effect and operation of the impugned judgment and order dated 16-06-2016 passed by the learned Sub-Divisional Officer, Pathardi in Revision Application No.101/2016 & impugned judgment and order dated 04-07-2016 passed by the learned Tahasildar in Road Case No. 22/2015, may kindly be stayed and suspended.”

4. The petition accordingly stands disposed of as withdrawn with liberty as prayed for.

5. It is clarified that, this court has not considered the merits of the case and thus, the Civil Court shall determine all the issues which may arise for adjudication without being influenced by aforesaid order.

(3)

wp8838.17

6. In view of disposal of the of the writ petition, the civil application No. 1086/2021 does not survive and, accordingly, stands disposed of.

[N. J. JAMADAR, J.]

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