

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO.261 OF 2021****WITH****INTERIM APPLICATION NO.2394 OF 2021**

Mr. Suresh Keshav Shirke & Ors.] .. Appellants/Applicants

Versus

Mr. Tukaram Keshav Shirke]
(since deceased, through Lrs)]
1A Mrs. Reshma Mahendra Indulkar & Ors.] ... Respondents

Dr. Uday Warunjikar a/w Ms. Vaishnavi Gujarathi for Appellants/
Applicants.

B. K. Bali a/w Anju Singh i/b Bali Associates for Respondents.

CORAM :- A. S. GADKARI, J.

DATE :- 20 SEPTEMBER, 2021

P. C. :-

1. At the outset, learned Counsel appearing for the Respondents raised a preliminary objection and submitted that the present Appeal from Order impugning the Order passed below Exh.30 in Suit No.2738 of 2012 is not maintainable as the said order is not passed under any of the sub-clauses of Rule 1 of Order 43 of CPC.

2. In view of the above, the learned Counsel for the Appellants, on instructions, seeks leave to withdraw the present Appeal with liberty to adopt appropriate proceedings including a substantive Writ Petition under Article 227 of Constitution of India before this Court.

Leave and liberty granted.

3. Appeal is disposed off as withdrawn.

In view of disposal of Appeal, Interim Application No.2394 of 2021 does not survive and the same is also disposed off.

(A. S. GADKARI, J.)