

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

**WRIT PETITION NO.4719 OF 2014
WITH
CA/209/2015 IN WP/4719/2014**

**THE MAHARASHTRA STATE CO-OPERATIVE BANK, LTD. MUMBAI
VERSUS
SHIVAPPA LINGAPA PATANKAR AND ANOTHER**

....
Mr. S.G. Patil, Advocate for the Petitioner
Mr. S.V. Dixit, Advocate for Respondent No.1
....

**CORAM : MANGESH S. PATIL, J.
DATE : 18 JULY 2022**

PER COURT:-

Learned counsel for the petitioner, on instructions, seeks leave to withdraw the writ petition with liberty to prefer an appeal since the impugned order passed under Order XXI Rule 58 of the Code of Civil Procedure is analogous to a decree. He further submits that by the interim order dated 05.12.2014, when the interim relief was being pressed for, a statement of the learned advocate for respondent No.1 was recorded to the effect that no third party interest would be created, that may be continued for a reasonable time to enable the petitioner to prefer an appeal.

2. Learned advocate Mr. Dixit for the respondent No.1 strongly opposes the request. He would further submit that a statement was made for the time being i.e. during the course only till the writ petition was pending. If the petitioner is now intending to withdraw it, there is no question of any extension of the statement. There was no specific order passed by the court granting any interim relief.

3. Pertinently, the petition is pending in this court since 2014. On the very first day, a statement was made on behalf of the respondent No.1 as mentioned herein above. It is only after the matter was taken up for hearing on admission that the petitioner has now sought to withdraw it having seen that an alternate remedy in the form of appeal would lie since the order was passed under Order XXI Rule 58 of the Code of Civil Procedure.

4. The fact remains that some kind of interim protection arrangement was in force for the last at least eight years. The propriety demands that the same arrangement continues for a reasonable time.

5. The writ petition is dismissed as withdrawn with liberty as prayed for.

6. The statement recorded in the order dated 05.12.2014 to continue for a period of three weeks from today.

7. All issues including maintainability of the appeal to be filed are kept open.

8. Pending civil application is disposed of.

[MANGESH S. PATIL]
JUDGE

S.P. Rane