

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6537 OF 2021

Mrs. Banoo S. Banaji

Since deceased through legal heir

Miss. Zarine K. Minstry

..Petitioner

Versus

Trustees of the Parsi Punchayet Funds
and Properties & Ors.

..Respondents

Mr. Dakshesh M. Vyas a/w Parth Choudhary & Nishant C.
Vyas i/by Yagnesh M. Vyas, for the Petitioner.

Mr. Jamsheed Master i/by Natasha K. Bhot, for the
Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 27th JULY, 2022

P.C.

1. Contentions of counsel for the petitioner/defendant to a suit for eviction are, the case of the respondents against the petitioner is that of illegal occupant through the original defendant No.1 who alleged to have expired in 2014.

2. The contention is, the additional issue No.1(b) does not take care of interest of the petitioner as that of legal heir of the defendant No.1.

3. As far as the aforesaid claim is concerned, in my

opinion, appropriate remedy is available to the petitioner to seek such declaration as regards her status as a legal heir.

4. In view of above, a prayer is made for withdrawal of the petition.

5. The petition as such stands disposed of as withdrawn.

6. However, this will not preclude the petitioner from taking out proceedings under the provisions of Order XXII Rule 5 of the CPC.

[NITIN W. SAMBRE, J.]