

SATISH
RAMCHANDRA
SANGAR

Digitally signed by
SATISH RAMCHANDRA
SANGAR
Date: 2022.09.21
18:32:29 +0530

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

**SECOND APPEAL NO. 554 OF 2019
WITH
CIVIL APPLICATION NO. 1218 OF 2019
IN
SECOND APPEAL NO. 554 OF 2019**

Firoj Sayyadnabi Sayyad and Ors. ...Appellants
vs.
Ashok Ramchandra Pote & Ors. ...Respondents

Mr.Prasad Avhad i/b. Mr.Kuldeep U. Nikam, Advocate for Appellants.
Ms.Manisha Jagtap i/b. J. Shekhar & Co. for Respondents.

CORAM : S. M. MODAK, J.

DATE : 20th SEPTEMBER, 2022

P. C. :-

1. Heard learned Advocate for the Appellants and learned Advocate for the Respondents. Read the order dated 6th September, 2022. The objection taken on behalf of the Respondents that Second Appeal is not maintainable as the impugned decree was passed as per the provisions of the Maharashtra Rent Control Act, was recorded in the said order.
2. Today, learned Advocate for the Appellants after ascertaining the provisions of law submitted that he wants to withdraw this Second Appeal and he seeks liberty to file appropriate proceedings along with delay condonation application. It is opposed on behalf of Respondents for the reason that the Appellants have continued with this Second Appeal since

2019 and Respondents being landlords are in need of the premises.

3. It is true that certainly Second Appeal is not maintainable and as such, this proceeding is going to fail if arguments are heard on merits. If the proceedings are going to fail, certainly liberty can be granted to Appellants to file appropriate proceedings. The reason is that every person aggrieved by any order has got right to approach the Court. However, this Court will not express any opinion about condonation of delay caused in filing those proceedings. This Court thinks that the issue can be kept open to be decided by the concerned Court.

4. Hence, order:

O R D E R

- (i) The proceedings are disposed of as not maintainable.
- (ii) The Appellants are granted liberty to file appropriate proceedings.
- (iii) If the issue of condonation of delay will arise, the Appellants to satisfy the Court and Respondents are at liberty to oppose the same.

[S. M. MODAK, J.]