

Chaitali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15425 OF 2022

Baban Dagdoo Madane (since deceased) &
Ors.

...Petitioners

Versus

Shree Chandraprabhu Jain Derasar Trust &
Ors.

...Respondents

Mr. V.R. Tripathi for the Petitioners.

Mr. Ketan R. Parekh for the Respondents.

CORAM : R.I. CHAGLA J

DATE : 16TH DECEMBER, 2022

ORDER :

1. Heard the learned Counsel for the parties.
2. By this Writ Petition filed under article 227 of the Constitution of India, the Petitioners are challenging the impugned judgment and order dated 21st November 2022 by which the Appellate Bench of the Court of Small Causes has allowed the Application for amendment of the Plaint and by which the Plaintiff was directed to carry out amendment within a period of 14 days from the date of the said impugned order. The Plaintiff was also directed to pay costs of

Rs. 10,000/-.

3. Stay had been granted by the Lower Court on 21st November 2022 which was operational till 5th December 2022. The Petitioners herein had applied for an extension of stay on 5th December 2022 which Application was rejected by the Appellate Bench of Small Causes Court vide order dated 5th December 2022.

4. The Respondents herein has thereafter taken steps through their Advocates for applying for condonation of delay in carrying out the amendment and for deposit of costs. This Application had come up on 12th December 2022, when the Advocate for the Petitioners herein was present and upon Application made by the Advocate for the Respondents, the Application was allowed and delay for carrying out amendment was condoned and amendment was to be carried out within seven days from the date of the said order.

5. The learned Counsel appearing for the Respondents states that the amendment has already been carried out in compliance with the said order dated 12th December 2022.

6. The Respondents have also deposited the costs in compliance with the prior order dated 21st November 2022.

7. Considering that the Petitioners have challenged the impugned order dated 21st November 2022 passed by the Appellate Bench of Court of Small Causes which has already been given effect to and amendment carried out, the Writ Petition has become infructuous. Accordingly, the Writ Petition is dismissed.

8. The rights and contentions of the parties are kept open in so far as the amendment carried out in the Plaint is concerned and which may be agitated before the lower Court.

[R.I. CHAGLA J.]