

PMB

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

**APPEAL FROM ORDER NO.883 OF 2022
WITH
INTERIM APPLICATION NO.3042 OF 2019**

Shobha A. Jadhav ..Appellant
vs.
Shankar Masu Manjule and ors. ..Respondents

Mr. Tejesh Dande a/w Mr. Bharat Gadhavi i/b. Tejesh Dande
and Associates for appellant.

Mr. Rohit D. Joshi for respondent Nos.1, 3 and 4.

Mr. Vijay S. Gharat a/w Mr. Rehan R. Momin for respondent
no.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 14, 2022.

P.C. :

1. An objection is raised by learned counsel for the respondent nos.1, 3 and 4 that this Appeal From Order is not maintainable. According to him as the application filed by the respondent no.8 before the trial Court for rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908 is allowed and that the plaint has been rejected, the remedy of the appellant herein is to file a Regular Appeal against the said order.

2. In this view of the matter, learned counsel for the appellant seeks leave to withdraw the Appeal From Order.

3. Learned counsel for the respondent nos.1, 3 and 4 and respondent no.2 fairly submit that they would not be opposing any application for condonation of delay in filing the First Appeal, if the same is filed within a reasonable time from the date of obtaining the certified copy. In any case, the time spent in prosecuting the proceedings before this Court being bonafide, the Appellate Court would obviously consider the issue of condoning delay in filing the substantive Appeal against the impugned order sympathetically.

4. Appeal From Order is allowed to be withdrawn with liberty to file the substantive appeal.

5. In the peculiar facts of this case, purely in the interest of justice, to enable the appellant to pursue his remedies, the ad-interim relief already in operation to continue for a period of four weeks from today so as to not cause any prejudice to the appellant.

6. Appeal From Order is disposed of. In view of the

disposal of the Appeal From Order, nothing survives for consideration in the Interim Application and the same stands disposed of.

(M. S. KARNIK, J.)