

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

**18 FIRST APPEAL NO.2142 OF 2017
RAMESHCHANDRA MADANLAL CHOVISHYA
VERSUS
PURUSHOTTAM RADHAKISHAN BAGDIYA AND ANR**

WITH

**CIVIL APPLICATION NO. 12762 OF 2022
MANIKCHAND HARAKCHANDJI KASLIWAL AND OTHERS
VERSUS
PURUSHOTTAM RADHAKISHAN BAGADIYA AND OTHERS**

Mr.A.N. Nagargoje, Advocate for the appellant.
Mr.P.D. Bachate, Advocate for respondent Nos. 1 and 2.
Mr.S.K. Chavan, Advocate for the applicants in
CA/12762/2022.

**CORAM : KISHORE C. SANT, J.
DATED : 09.11.2023**

PC :-

01. Heard. The learned Advocate for the appellants has filed pursis dated 26.08.2022 seeking withdrawal of the appeal. However, same is vehemently opposed by the applicant in Civil Application No. 12762 of 2022. The Civil Application is for impleading those applicants as party to the appeal. In the alternative it is prayed that the applicants be permitted to prefer a First Appeal challenging judgment and order dated 23.12.2016 passed by learned Adhoc District Judge-2, Jalna in RCA No.141 of 2012, subject matter of F.A. No.2142 of 2017. The

applicants oppose withdrawal on the ground that the said withdrawal is against interest of the trust.

02. Considering the said application, the applicants may seek remedy as available under the law. This Court is of the opinion that since the applicants are not party to the appeal, they cannot oppose the withdrawal of the First Appeal.

03. It is also reported that against a common judgment and order by the learned Asstt. Charity Commissioner, which was subject matter of challenge before the District Court is also challenged by the applicants in Civil Application No.12762 of 2022 by filing appeal before the Jt. Charity Commissioner, which is pending at Aurangabad.

04. Considering the above, this Court feels that withdrawal of First Appeal No.2142 of 2017 can be permitted. Since, concern is expressed by the applicants in the said application that this withdrawal may influence learned Jt. Charity Commissioner while deciding the appeal preferred by the said applicants, it is made clear that in view of withdrawal of the First Appeal, no prejudice will be caused to any of the parties. The learned Jt. Charity Commissioner to decide the appeal

independently without being influenced by the observations of the learned Adhoc District Judge in RCA No.141 of 2012.

05. With the above observations, the First Appeal is disposed off as withdrawn.

06. Insofar as Civil Application No. 12762 of 2022 is concerned, the applicants may avail remedy as available under the law.

07. Civil Application No.12762 of 2022 also stands disposed off.

[KISHORE C. SANT, J.]