

SA Pathan

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

CIVIL REVISION APPLICATION NO.296 OF 2017

Subhash Govind Saykhedkar & Ors ... Applicants

V/s.

Alka Padmakar Joshi (Deceased)

Through Legal Heirs & Ors ... Respondents

Mr. Girish R Agrawal a/w Ms. Naina Boraste, for
Applicants.

Mr. Vivek Salunke i/by Mr. Ajinkya J. Jaibhave, for
Respondents.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 19, 2023

P.C.:

1. Learned Advocate for respondent Nos.1(1) to 1(5) on instructions states that they be allowed to file separate application under proviso to Rule 3 of Order 23 read with Section 151 of the Code of Civil Procedure, 1908 seeking appropriate relief in relation to validity of consent decree.

2. In view of the said statement, the impugned order granting permission to the plaintiffs to convert suit into application under Section 151 of the Code of Civil Procedure, 1908 cannot be sustained. The impugned order is, therefore, set aside.

3. However, it is made clear that setting aside of the impugned order shall not preclude respondent Nos.1(1) to 1(5) from filing an application under proviso to Rule 3 of Order 23 read with Section 151 of the Code of Civil Procedure, 1908. If, such application is filed, the Trial Court shall decide such application in accordance with law.

4. It is made clear that the period spent in prosecuting the present civil revision application, the period from 10 November 2016 till today i.e. 19 December 2023 shall be excluded from reasonable period for filing an application under proviso to Rule 3 of Order 23 read with Section 151 of the Code of Civil Procedure, 1908.

5. With this clarification, the civil revision application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)