



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

APEAL FROM ORDER NO. 49 OF 2024

**SAU. SHALINI MAYUR BHATIA AND ANOTHER
VERSUS
MUKESHCHANDRA @ MUKESH RAMDAS BHATIA AND
OTHERS**

...

Mr. Uday S. Malte, Advocate for the Appellants.
Mr. Sanket S. Kulkarni, Advocate for Respondent No.1 and 2.
Mr. Girish V. Wani, Advocate for Respondent No.3.

...

**WITH
CIVIL APPLICATION NO. 10580 OF 2024
IN AO/49/2024**

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 13th DECEMBER, 2024.**

P.C.:-

1. Mr. Wani and Mr. Kulkarni, learned Advocates appearing for respondents raise preliminary objection as regards to the maintainability of the Appeal from Order.

2. Admittedly, order impugned in this Appeal from Order is passed by the learned District Judge, Jalgaon in Miscellaneous Civil Appeal No.33/2022, which was filed against the order passed below Exhibit-29 refusing temporary injunction in Special Civil Suit No.102/2021. The order refusing injunction was subjected to challenge before the District Court by way of Miscellaneous Civil Appeal u/o 43 of the Code of Civil Procedure. Finally decision in Miscellaneous Civil Appeal is taken by the District Court. Therefore, Second Appeal against order passed in Miscellaneous Civil Appeal would not be maintainable. Consequently, Mr. Malte seeks permission to withdraw this Appeal from Order with liberty to file Writ Petition.

3. In view of the submission, Appeal from Order stands disposed of with liberty to file Writ Petition.

4. In view of disposal of Appeal from Order, Civil Application does not survive and accordingly disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/December-2024