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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 979 OF 2022
WITH
INTERIM APPLICATION NO. 30784 OF 2022
IN
SECOND APPEAL NO. 979 OF 2022**

Shri Sai Sidhi Builder And Developer ... Appellant/Applicant
Thr Shri Yogesh Ramesh Kulkarni

vs.

Smt. Kalindibai Dattatray Phadke (D/H) ... Respondents
Shri Anil Dattatray Phadke and Ors

Mr. Umesh Mankapure a/w. Ms. Rati S. Sinhasane for
Appellant/Applicant

Mr. Kuldeep U. Nikam a/w. N. Shinghvi for Respondents.

CORAM : GAURI GODSE, J.

DATED : 16th OCTOBER 2024

ORDER:

1. Learned counsel for the appellant on instructions seeks leave to withdraw the Special Civil Suit No. 66 of 2013 with liberty to file a fresh suit.

2. Learned counsel for the respondents submits that if

questions with regard to the cause of action and limitation are kept open, he does not have any objection for grant of the aforesaid leave with liberty.

3. Hence, the appellant is granted permission to withdraw the Special Civil Suit No. 66 of 2013 with liberty to file a fresh suit.

4. It is clarified that all the rival contentions of the parties including the issues regarding the cause of action and limitation are kept open.

5. In view of withdrawal of the suit, nothing survives in the second appeal. Second appeal is disposed of with the aforesaid liberty.

6. In view of disposal of the second appeal, pending applications stand disposed of as infructuous.

(GAURI GODSE, J.)