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

WRIT PETITION NO. 2519 OF 2024

Munni Altaf Balurgi

.. Petitioner

Versus

~~Nanasaheb Kalu Gaikwad,~~

Deceased Through Legal Heirs

Indubai Nanasaheb Gaikwad and Ors.

.. Respondents

.....

- Ms. Indrayani Koparkar, Advocate for Petitioner.
- Mr. Girish Godbole, Senior Advocate a/w. Mr. Sumit Kothari and Ms. Deepashikha Godbole, Advocates for M/s. Samrat Promoters & Builders for the Respondent No.13.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 26, 2024.

P.C.:

1. Heard Ms. Koparkar, learned Advocate for Petitioner and Mr. Godbole, learned Senior Advocate for Respondent No.13.

2. By the present Writ Petition, challenge is maintained to two orders. Order dated 21.08.2023 which is at Exhibit “B” - page No.23 of the Writ Petition is an order passed below Exhibit “417” in Regular Civil Suit No.1720 of 2002 permitting withdrawal of the Suit by the Plaintiffs. Reasons for withdrawal of the Suit are mentioned in paragraph Nos.2 to 4 thereof. The order states that despite the say of the Defendants being called upon, Defendants have remained absent and failed to file their say. Order dated 10.10.2022 is impugned in the

present Writ Petition which is at page No.30. It is admittedly an interlocutory order passed below Exhibit “317” in RCS No.1720 of 2002 during the interregnum when the Suit was pending before the learned Trial Court.

3. In view of withdrawal of the Suit having been allowed by the learned Trial Court on 21.08.2023, the interlocutory order passed below Exhibit “317” automatically comes to an end and is determined as infructuous.

4. In so far as the order dated 10.10.2022 is concerned, it is an interlocutory order passed under Application below Exhibit “317” seeking impleadment of the Petitioner to be brought on record as legal heir of one of the partner of the partnership firm who was the original Defendant. Considering that the Suit has been allowed to be withdrawal by a subsequent order dated 21.08.2023, the challenge to that order now cannot be maintained. Hence no observation is required to be noted on the order dated 10.10.2022.

5. In view of the above observations, Writ Petition is dismissed.

[MILIND N. JADHAV, J.]

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