

Ajay

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

WRIT PETITION NO. 3354 OF 2021

~~Vijay Balkrishna Dandekar~~

(Since deceased through heirs and legal
representative)

Vaishali Vijay Dandekar and Ors.

.. Petitioners

Versus

Dashrath Nathu Patil and Ors.

.. Respondents

-
- Mr. Nitin V. Gangal, Mr. Ashok Kadam and Prapti Karkera,
Advocates for Petitioners.
-

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 06, 2024.

P.C.:

- 1.** Heard Mr. Gangal, learned Advocate for Petitioners.
- 2.** When the Writ Petition is called out, Mr. Gangal would submit that Defendant No.1 has expired in the interregnum rendering the cause of action in the present Writ Petition nugatory. He would submit that Application filed before the learned Trial Court by taking recourse under the provisions of Section 138 of the Indian Evidence Act, 1872 to cross-examine Defendant No.1/1 has been rejected by the learned Trial Court. Application is filed by Defendant No.2. I have impressed upon Mr. Gangal that any substantive right that may enure to Defendant Nos.17 to 20 in the Suit property, can always be remedied by filing an appropriate proceeding as available to them on

the basis of their substantive right in the Suit property.

3. In view of the above, the Writ Petitioners are allowed to withdraw the present Writ Petition unconditionally.

4. Needless to state that the withdrawal of the present Writ Petition shall not preclude the rights of the Petitioners who are Defendant Nos.17 to 20 before the learned Trial Court to cross-examine the other Defendants or other parties strictly in accordance with law.

5. With the above directions, Writ Petition is disposed as withdrawn.

[MILIND N. JADHAV, J.]

Ajay

AJAY
TRAMBAK
UGALMUGALE
Digitally signed
by AJAY
TRAMBAK
UGALMUGALE
Date: 2024.03.06
17:20:55 +0530