

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4686 OF 2023
WITH
INTERIM APPLICATION (ST) NO.32651 OF 2023

SHARADA
RANGNATH
WAHULE

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Marie Joseph Faria D/o Late Frank
Oliveira JR & Ors. ... Petitioners

V/s.

Bharat Petroleum Corporation Ltd &
Ors. ... Respondents

WITH
WRIT PETITION NO.10103 OF 2023

Bharat Petroleum Corporation Limited
Formerly Known As Burmah Shell Oil
Storage And Distribution Co. & Ors ... Petitioners

V/s.

Marie Joseph Faria D/o Late Frank
Oliveira & Ors. ... Respondents

Mr. Nursat Shah a/w. Ema Almeida, Kevin Gala, Archana Jha & Mr.
Anil Rai i.b Samma Shah, Advocate for the Petitioner in
WP/4686/2023 & for Respondent No.1 in WP/10103/2023.

Mr. P. S. Dani Senior Advocate a/w Mr. S. R. Page, Eesha J. & Adv.
Ruchi Umrotkar for Respondents in WP/4686/2023 & for
Petitioner in WP/10103/2023.

Mr. C. D. Mali – APP for the Respondent-State

CORAM : RAJESH S. PATIL, J.

DATED : 25 JANUARY 2024

P.C.:

WRIT PETITION NO.4686 OF 2023

1. Mr. Dani Senior Counsel appearing for the Respondents have raised a preliminary objection about maintainability of this Writ Petition.
2. Mr. Dani submits that the impugned order has been challenged by the petitioners by Writ Petition when the Revision could have been filed before the Appellate Bench of the Small Causes Court.
3. Mr. Dani has referred the full bench judgment of this Court ***Bhartiben Shah Vs. Gracy Thomas reported in 2013(2) Bom C.R.1.***
4. Mr. Nursat Shah appearing for the petitioner seeks leave of the court to withdraw this Writ Petition with liberty to file a Revision under Section 42 of the Presidential Small Causes Act 1882 before the Appellate Bench of Court of Small Causes, at Mumbai. He further sought exclusion of time period from filing of the present Writ Petition till today. This said period should be excluded while calculating the limitation period.
5. Leave with liberty, as prayed for, is granted. Writ Petition is disposed of as withdrawn with liberty to the petitioner to file the Revision under Section 42 before the Court of Small Causes. Since this Court has not dealt with the merits of the matter, all contentions of parties are kept open.
6. If the revision is filed by the petitioner within a period of one week from today, the same will be decided by the Appellate Bench

of Small Causes court as expeditiously as possible and will try to make an endeavour to dispose of the same within a period of six weeks from today.

7. All parties to act on an authenticated copy of this order.

WRIT PETITION NO.10103 OF 2023

1. Stand over to 8 February 2024 under the caption 'for admission'.
2. Ad-interim relief, if any, to continue till the next date of the hearing.

(RAJESH S. PATIL, J.)