

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

**WRIT PETITION NO.6976 OF 2024
WITH
WRIT PETITION NO.6982 OF 2024**

Ravindra Shankar Mohire & Ors.Petitioners

V/S

Sushila Manilal Shah & Ors.Respondents

**WITH
WRIT PETITION NO.6977 OF 2024**

Ravindra Shankar Mohire & Ors.Petitioners

V/S

Manilal Nanji Shah & Ors.Respondents

Ms. Vaishnavi M. Gujarathi for the Petitioners in WP Nos.6976 of 2024, 6977 of 2024 and 6982 of 2024.

Mr. Surel Shah a/w Mr. Bhavik Lalan, Ms. Neeta Solanki and Mr. Kiran Dubey i/b M/s. Unison Legal for Respondent Nos.2, 3, 5 and 6 through video conferencing in WP 6976 of 2024 .

Mr. Bhavik Lalan a/w Ms. Neeta Solanki and Mr. Kiran Dubey i/b M/s. Unison Legal for Respondent Nos.2, 3, 5 and 6 in WP Nos.6977 of 2024 and 6982 of 2024

**CORAM: SANDEEP V. MARNE, J.
DATE : 24 JUNE 2024.**

P.C.:

1 The challenge in the present Petitions is to the orders dated 14 June 2023 passed by the Appellate Bench of the Small Causes Court by which the Consent Terms executed between the Appellant and Respondent Nos.1 and 2

in the Appeal have been accepted and the Appeal has been disposed of in view of the said Consent Terms. Since Petitioners, who were Respondent Nos.3 and 4 in the Appeal, did not execute the Consent Terms, the Appellate Court has disposed of the Appeal as withdrawn against the Petitioners.

2 The suit filed by the Plaintiff tenant is interpleader suit against Defendant Nos.1 and 2 and Defendant Nos.3 and 4 for the purpose of ascertainment as to who is the owner and landlord of the suit property/premises. The plaint in the suit was rejected under provisions of Order 7 Rule 11 of Code of Civil Procedure, 1908 (**Code**) on an application filed by Defendant Nos.1 and 2. In the Appeal filed by the Plaintiff tenant, Consent Terms came to be executed between the Plaintiff and Defendant Nos.1 and 2, under which Plaintiff accepted Defendant No.1 as the landlord in respect of the suit premises. Defendant Nos.3 and 4, who are Petitioners in the Petition are aggrieved by the compromise executed between the Plaintiff and Defendant Nos.1 and 2, which according to the Petitioners, affects their rights in respect of the suit premises.

3 Mr. Shah raises an objection about maintainability of the Petitions by relying on judgment of the Apex Court in **Trilok Nath Singh vs. Anirdudh Singh**, (2020) 6 SCC 629 contending that the correct remedy for the Petitioners is to file an application before the Appellate Bench of the Small Causes Court for setting aside the compromise decree under provisions of Order 23, Rule 3 of the Code.

4 Ms. Gujarathi, the learned counsel appearing for the Petitioners, on instructions, seeks leave to withdraw the Petitions seeking liberty to file an appropriate application for setting aside the compromise decree before the Appellate Bench. The Writ Petitions are accordingly disposed of as withdrawn with liberty to the Petitioners to file applications before the Appellate Bench for setting aside the compromise decree. If as and when such application is filed the same shall be decided by the Appellate Bench on its own merits in an expeditious manner.

(SANDEEP V. MARNE, J.)

SUDARSHAN
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KATKAM

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2024.06.28
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