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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7790 OF 2023**

Bavtis Shahu Bardeskar and Anr ... Petitioners

vs.

Hirabai Shankar Gholap and Ors ... Respondents

Mr. Kunal Bhanage i/b. Mr. Akshay Pawar for Petitioners.
Ms. Ranjana Todankar for Respondents.

CORAM : GAURI GODSE, J.

DATED : 10th JUNE 2025

ORDER:

1. This petition arises out of an order rejecting interim application in Regular Civil Suit No. 23 of 2019. The suit is filed for declaration that the decree passed in Special Civil Suit No. 20 of 1978 in favour of respondents is not binding upon the petitioners/plaintiffs.

2. After arguing the petition for sometime, learned counsel for the petitioners on instructions seeks leave to withdraw the Regular Civil Suit No. 23 of 2019 with liberty to file application/objection in the pending proceeding before the learned Tahsildar numbered as RTS/BPD/SR/40/2018, which is pending for execution of the partition decree in Special Civil Suit No. 20 of 1978. Learned counsel for the respondents submits that liberty to the respondents to raise objections as permissible in law

be kept open.

3. Writ Petition is therefore disposed of by passing the following order:

I) The petitioners are permitted to withdraw the Regular Civil Suit No. 23 of 2019, pending before the Civil Judge, Senior Division, Gadhinglaj, Kolhapur with liberty to file an appropriate application/objection as permissible in law, in the pending proceedings before the learned Tahsildar numbered as RTS/BPD/SR/40/2018.

II) The respondents/decreed holders are at liberty to raise objection as permissible in law, if such application/objection is filed by the petitioners.

III) All the rival contentions of the parties on merits are kept open.

4. Needless to clarify that if such application/objection is filed, the same shall be decided on its own merits uninfluenced by the orders impugned in the petition. Subject to the petitioners filing appropriate application as permitted by this order within two weeks from today, the possession warrant if any issued, shall not be executed against the petitioners for a period of three weeks.

5. Writ Petition is disposed of in above terms.

(GAURI GODSE, J.)