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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14319 OF 2024**

Lata Sidharth Dalvi and Ors ... Petitioners

VS.

Rajpal Baburao Kamble and Ors ... Respondents

Mr. Pawar Nikhil Mahendra for Petitioners.

Mr. Ramdas A.Shelke for Respondent.

CORAM : GAURI GODSE, J.

DATED : 25th JULY 2025

ORDER:

1. This petition is filed to challenge the order rejecting application at Exhibit-110. Learned counsel for the petitioners submits that the issues are not yet framed in the suit. He therefore seeks leave to withdraw the petition with liberty to agitate the petitioners' objections regarding the suit being barred by the principle of res judicata at the time of settlement of issues and in the trial. He submits that the petitioners be granted liberty to apply for deciding the issue of bar of principle of res judicata as a preliminary issue after the settlement of issues.

2. Leave granted. The petitioners are at liberty to raise grounds for framing of the issue bar of the principle of res judicata

at the time of settlement of issues. The petitioners would be also at liberty to make an appropriate application for deciding the issue of res judicata as the preliminary issue after the issues are framed. If such an application is made, the same shall be decided by the trial court on its own merits in accordance with law.

3. It is clarified that the observations in the impugned order are limited to the extent of deciding the petitioners' application for framing preliminary issue. Hence, the contentions of the parties are kept open to be agitated at the time of settlement of issues. The observations in the impugned order shall not influence the trial court at the time of settlement of issues.

4. All the rival contentions of the parties on merits of the suit are kept open.

5. Writ Petition is disposed of as withdrawn with the aforesaid liberty.

(GAURI GODSE, J.)