

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5409 OF 2025

Pavan Ramesh Agrawal & Anr. .. Petitioners

Versus

Subhash Radhakishan Pardeshi .. Respondent

...

Mr.Tukaram Shendge for the Petitioners.

CORAM: N.J.JAMADAR, J.

DATED : 28th APRIL, 2025

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P.C:-

1. Heard the learned counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 20/12/2024, passed by the learned Civil Judge in RCS No.195 of 2014, whereby the learned Civil Judge granted permission to the Respondent/Plaintiff to withdraw the suit, with liberty to institute a fresh suit.
3. The learned counsel for the Petitioners submitted that the Plaintiff has not made out a sufficient ground under Order 23 Rule 1(3) of the Code of Civil Procedure to grant permission to withdraw the suit, with liberty to file a fresh suit.
4. The trial Court has referred to the averments in the application, especially the development in the intervening

period, pursuant to which, the suit property has been divided into plots and these plots have been allotted to the various persons and, therefore, in the view of the trial Court, the Plaintiff deserved leave to withdraw the suit, with liberty to file a fresh suit on the same cause of action.

5. I have perused the averments in the plaint, especially the prayers therein. The developments adverted to in the application for withdrawal of the suit with liberty to institute a fresh suit are such that, the suit could have failed. Therefore, the learned Civil Judge was justified in granting leave to withdraw the suit with liberty to file a fresh suit.

6. In the event such suit is filed, the Petitioners/Defendant Nos.66 and 67 will have an opportunity to raise all the grounds, which are raised in the Petition, especially with regard to the knowledge of the Plaintiff regarding the said developments.

7. The impugned order, thus, does not warrant interference in the exercise of the supervisory jurisdiction.

8. The Petition stands disposed of.

(N.J.JAMADAR, J.)