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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6516 OF 2015

Shri Dadaso Kallappa Kothawale ... Petitioner

Vs.

Shri Appasaheb Shankar Hunurge and others ... Respondents

Mr.Manoj A.Patil, Advocate for Petitioner.

CORAM : R. G. KETKAR, J.

DATE : 16th JULY, 2015

P.C. :

. Heard Mr.Manoj A.Patil, learned Counsel for the petitioner at length.

2. By this Petition under Article 227 of the Constitution of India, original plaintiff has challenged the judgment and order dated 20/06/2015 passed by the learned Civil Judge, Junior Division, Kagal below Exhibit 59 in Regular Civil Suit No. 28 of 2014. By that order, the learned trial Judge rejected the application made by the petitioner, hereinafter referred to as plaintiff under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for amending the plaint. The learned trial Judge rejected the application principally on the ground that the ownership of the plaintiff is disputed by the defendants. Mr.Patil relied upon the decision of the Apex Court in the case of *Anathula Sudhakar Vs. P.Buchi Reddy*, **2008**

(4) Supreme Court Cases 594.

3. In the light of the above decision, after arguing the Petition for quite some time, Mr.Patil, upon taking instructions from the petitioner- Dadaso Kallappa Kothawale who is present in the Court, seeks permission to withdraw this Petition with liberty to file application for amending the plaint for incorporating prayers for declaration of ownership and for bringing on record subsequent developments. He has tendered photocopy of the identity card of the petitioner which is taken on record and marked 'X' for identification.

4. On the motion made by Mr.Patil, Petition is allowed to be withdrawn with liberty as prayed for.

5. All the contentions of the parties as also respondents-defendants including objection as regards maintainability of such application are kept open. If such application is taken out, the learned trial Judge will decide the same on its own merits and in accordance with law. Order accordingly.

(R. G. KETKAR, J.)