

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

**CIVIL APPLICATION NO.1326 OF 2015
IN
APPEAL FROM ORDER NO.969 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Prothonotary's orders	Court's or Judge's orders.
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Mr.Atul S. Singh for the applicant

Mr.Dilip Shukla for the appellant

Mr.Owen Menezes i/b Mr.D.D.Singh for the respondent no.2

CORAM : K.K.TATED, J.
DATED : 11/12/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by third party for modification of the order dated 4.8.2015 passed by this court in Appeal from Order (ST) No.18303 of 2015 with Civil Applications by which the Appeal from Order stands dismissed as withdrawn.
- 3 The learned counsel for the applicant submits that their interest is affected by the said order passed by this court particularly paragraph 5(b) by which the appellants/plaintiffs agreed to hand over possession of the property to the respondent no.2.

4 On the other hand, the learned counsel for the appellant original plaintiff submits that they already withdrew L.C.Suit No.1843 of 2015 on 26.11.2015. To that effect, he has placed on record copy of the said order. Same is taken on record and marked 'X' for identification. He submits that in view of the withdrawal of the Suit itself, nothing survives in the present Civil Application.

5 When this court called upon the advocate for the applicant who was not party to the Suit and or Appeal from Order, to point out under which provision he has preferred this application in disposed of Appeal from Order, he was not in a position to show the same. It is to be noted that Appeal from Order is already disposed of by this court as withdrawn by the applicant original plaintiff.

6 Hence, the present application is not maintainable. Same is dismissed.

(K.K.TATED, J.)