

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

WRIT PETITION STAMP NO.23103 OF 2015

Maxwell Industries Ltd : **Petitioner**
versus
Bhawarlal Jain
Prop. Of M/s. Prince Distributors : **Respondent.**

Mr. D S Jain for the Petitioner.
Mr. A J Shohawat for the Respondent.

CORAM : R. M. SAVANT, J.
DATE : 23rd September 2015

P.C.

1 The learned counsel for the Petitioner Shri D S Jain on instructions seeks withdrawal of the Application (Exhibit 4) with liberty to file proper application to lead secondary evidence. In view of the said statement made by the learned counsel for the Petitioner the Application (Exhibit 4) in which the impugned order has been passed is allowed to be withdrawn. Resultantly the impugned order would not survive and the same is accordingly set aside. The Petitioner would be at liberty to file a fresh application for leading secondary evidence by taking recourse to Section 65 of the Indian Evidence Act. The same to be done within a period of one week from date. The learned counsel for the Respondent has no objection to the said course of action being followed. If any such application is filed, needless to state that the Trial Court would consider the same on its own merits and in accordance with law. For a period of one

week the trial not to be proceeded with. In the event the fresh application is filed, the same to be considered in the first instance. With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]

Certified to be true and correct copy of the original signed Order.