

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

WRIT PETITION NO.2622 OF 2015

(Kisan Champat Dumhare ..vs.. Pralhad Nivrutti Wadhekar)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 29-07-2015

Heard Shri R.S. Kurekar, learned Advocate for the petitioner.

2. The petitioner/original defendant has filed this petition challenging the order passed by the trial Court, granting liberty to file fresh suit while granting permission to the respondent/plaintiff to withdraw the civil suit. The respondent/plaintiff had filed the application under Order XXIII of the Code of Civil Procedure, stating that because of the subsequent events, the plaintiff will have to substantially amend the plaint and instead of amending the plaint, he intends to file a fresh suit. The learned trial Judge, accepting the contention of the respondent/plaintiff allowed the application and permitted him to withdraw the civil suit with liberty to file fresh suit. The learned trial Judge has granted costs of Rs.2,500/- to the petitioner/defendant.

3. From the record, I do not find that the petitioner/defendant had opposed the contentions of the

respondent/plaintiff that the plaintiff will have to be substantially amended to bring subsequent events on the record for proper and complete adjudication of the matter. In view of this, I find that the impugned order is proper and cannot be faulted with. There is no error of jurisdiction. I see no reason to interfere with the impugned order. The writ petition is dismissed.

JUDGE

pma