

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9620 OF 2013

EKNATH DHONDIRAM GHANWAT

PETITIONER

VERSUS

MAROTI S/O DHONDIRAM GHANWAT
AND OTHERS

RESPONDENTS

Mr.Y.V.Kakde, Advocate for the petitioner.
Mr.N.B.Narwade, Advocate for respondent No.1.
Petition dismissed against respondent No.2.
Respondent No.3 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 27/04/2016

PER COURT :

1. This matter was heard for some time. Learned Advocates for the petitioner and respondent No.1 do not dispute that the cause of action which led the petitioner to file an application for tendering a counter claim, arose on 15/07/2012. The written statement was filed on 26/09/2011 after the suit was filed on 18/04/2011. Learned Advocate for respondent No.1, therefore, contended that subject to the law of limitation, the petitioner can opt for filing a fresh suit for the alleged cause of action dated 15/07/2012.

2. The learned Advocate for the petitioner submits on instructions

that the petitioner desires to withdraw this petition with leave to prefer a fresh suit for the cause of action which was sought to be put forth through the counter claim. He, however, prays that the time consumed in deciding the application Exh.43 and the time spent in this proceeding before this Court, be considered as a good ground for condonation of delay, if any.

3. Learned Advocate for the respondents has no objection.

4. In the light of the above, this petition is disposed of, as withdrawn on instructions with leave to avail of a remedy, as prayed for. The time spent by the petitioner in pursuing application Exh.43 and this petition, shall be considered by the Forum before whom the petitioner may put forth his cause of action.

(RAVINDRA V. GHUGE, J.)