

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2318 OF 2015**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Lal N. Aswani, Advocate for Petitioner.

CORAM : R. G. KETKAR, J.

DATE : 17/11/2016

P.C.:

1. Heard Mr.Lal Aswani, learned counsel for the petitioner at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as the 'plaintiff', has challenged the judgment and order dated 4.10.2014 passed by the learned 3rd Jt. Civil Judge, Junior Division at Thane below Exhibit-77 in R.C.S. No.809/2007. By that order, the learned trial Judge rejected the application made by the plaintiff under Section 8 of the Maharashtra Court Fees Act.
3. Mr.Aswani invited my attention to the order dated 22.9.2016 passed by this Court (Coram:N.M. Jamdar, J.) in present Petition. He further submitted that for non-compliance of the impugned order, the learned trial Judge

has dismissed the suit. He has taken out application for restoration. Pending that application, the plaintiff has also filed application to the effect that the plaintiff is ready and willing to comply the impugned order by depositing the deficit court fee albeit without prejudice to his rights and contentions and keeping the question of payment of court fees open. Mr. Aswani fairly stated that the plaintiff will comply the impugned order without any reservation.

4. In view thereof, the learned trial Judge will consider the application for restoration as the plaintiff is now ready and willing to deposit the deficit court fee without keeping that contention open. Subject to this, no case is made out for invocation of powers under Article 227 of the Constitution of India as the plaintiff has expressed his willingness to deposit the deficit court fees. Hence, Petition fails and the same is dismissed. Order accordingly.

(R. G. KETKAR, J.)