

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1642 OF 2016

RAJESH CHUNILAL MEGHANI

...Petitioner

Versus

THE ANDHERI RECREATION CLUB
AND ORS.

...Respondents

....

Mr.Mukesh Vashi, Senior Advocate a/w. Chirag Shah i/b. Priyadarshan V. Shah, Advocate for the Petitioner.

Mr. R.S.Apte, Senior Counsel a/w. Dilip Shukla, for Respondent Nos.1 to 6.

Mr. R.S. Mishra, Advocate for Respondent Nos.7 & 8.

Mr. G.C. Singh, Advocate for Respondent Nos.11 and 12.

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CORAM : R. G. KETKAR, J.

DATE : 11th MARCH, 2016

P.C.

1. Heard Mr. Mukesh Vashi, learned Senior Counsel for the petitioner, Mr. R.S. Apte, learned Senior Counsel for respondent Nos.1 to 6, Mr. R.S.Mishra, learned Counsel for respondent Nos.7 & 8 and Mr. G.C. Singh, learned Counsel for respondent Nos.11 and 12.

2. By this petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 30.1.2016 passed by learned Judge, presiding over court

room No.2 of the City Civil Court at Mumbai, Borivali Division, Dindoshi, Goregaon, Mumbai in Notice of Motion No.183/2016 in Suit No.3602/2015. By that order, learned trial Judge held that the Civil Court has no jurisdiction to entertain and try the suit. By subsequent order dated 26.2.2016, the learned trial Judge rejected the plaint under Order 7 Rule 11(d) of Code of Civil Procedure, 1908 (for short, 'CPC').

3. In view thereof, Mr. Vashi seeks permission to withdraw this Petition with liberty to file substantive appeal as the learned trial Judge has rejected the plaint. On the motion made by Mr. Vashi, the petition is allowed to be withdrawn with liberty as prayed for. It is made clear that I have not examined the merits of the case. Order accordingly.

4. At this stage, Mr. Vashi prays for continuation of the ad-interim order dated 8.2.2016 for a period of two weeks from today. By order dated 8.2.2016, the matter was adjourned to 16.2.2016 and till next date the order directing the defendants not to take further steps against the plaintiff and to maintain status quo was ordered to remain in force. Mr. Apte submits that the membership of the plaintiff is suspended. In view of the

decision of Apex Court in the case of ***Kishore Kumar Khaitan and another vs. Praveen Kumar Singh, (2006) 3 SCC 312,*** the status quo will have to be clarified. On the oral application made by Mr. Vashi, ad-interim order dated 8.2.2016 is continued for a period of two weeks from today, with clarification that the suspension of the plaintiff continues.

(R. G. KETKAR, J.)

Deshmane (PS)