

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1098 OF 2016**

Smt. Lilabai Chandrakant Khaire

..Petitioner

Vs

Shri Subhash Chanpalal Sanklecha

.. Respondent

Mr. T. D. Deshmukh, Advocate for Petitioner.

CORAM : R.G.KETKAR,J.

DATE : 27/01/2016

PC:

1. Heard Mr. T.D. Deshmukh, learned counsel for the petitioner at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 10.4.2015 passed by the learned Civil Judge, Jr. Dn., Junnar below Exh.96 in R.C.S.No.224 of 2002. By that order, the learned trial Judge rejected the application made by the petitioner, hereinafter referred to as 'defendant', for setting aside 'no cross' order. The learned trial Judge also closed the evidence of the defendant.
3. Mr. Deshmukh submitted that the defendant is suffering from breast cancer. He submitted that the defendant can substantiate this plea. Unfortunately, the medical papers were not produced in the trial Court. While rejecting the application,

the learned trial Judge has observed that defendant has not filed any medical document to show her illness. He, therefore, seeks permission to withdraw this Petition with liberty to file Review Petition and produce medical papers to show her illness from 2008 onwards.

4. On the motion made by Mr. Deshmukh, Petition is allowed to be withdrawn with liberty as prayed for. It is expressly made clear that grant of liberty shall not be construed as an expression on merits of the proposed proceedings. All contentions of the plaintiff including objection of maintainability, are expressly kept open. Order accordingly.

(R.G.KETKAR, J.)