

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3573 OF 2016**

Praful Vithaldas Vithlani

..Petitioner.

Vs

Shri Ravishankar Gagubhai
Chritable Trust and Ors.

.. Respondent

Mr. Omprakash Pandey , Advocate for the petitioner.
Mr. Deepak R. Jaiswal, Constituted Attorney for Respondents no. 4
to 7 present in-person.

**CORAM : R.G.KETKAR,J.
DATE : 08/06/2016**

PC:

1. Heard Mr. Omprakash Pandey, learned counsel for the petitioner.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 14.7.2015 passed by the learned Judge presiding over Court Room No.34 of the Court of Small Causes at Bombay below Exh.46 in R.A.E. Suit No.8585 of 2012. By that order, the learned trial Judge allowed the application filed by defendants no. 4 to 7 under Order VII Rule 11 of C.P.C for rejection of the Plaint.
3. In view of definition of 'decree' under section 2(2) of C.P.C., the expression “decree” includes the rejection of a plaint. In view thereof, Mr. Pandey seeks liberty to withdraw this Petition with liberty to file Appeal before Appellate Bench.

4. On the motion made by Mr. Pandey, Petition is allowed to be withdrawn with liberty as prayed for. It is made clear that I have not examined merits of the Petition. Order accordingly.

(R.G.KETKAR, J.)