

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13349 OF 2016**

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.C.K. Tripathi, Advocate for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : 05/12/2016

P.C.:

1. Heard Mr.Tripathi, learned Counsel for the petitioner.
2. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as the 'plaintiff', has challenged the order dated 25.10.2016 passed by the learned trial Judge below Exhibit-54 in L.C.Suit No.2207/2010. By that order, the learned trial Judge rejected the application filed by the plaintiff for issuance of witness summons to Advocate Shri Manoj Kumar Upadhyay to prove the affidavit of Mr.Peter A. Pinto dated 25.2.2010. Mr. Tripathi submitted that said affidavit was sworn before the Superintendent, City Civil Court, Bombay, Borivali Division at Dindoshi (Goregaon). The plaintiff will take out application for issuing witness summons to the Superintendent, City Civil Court, Bombay, Borivali Division at Dindoshi (Goregaon)

before whom defendant No.2 had sworn the affidavit. He, therefore, seeks permission to withdraw this Petition with liberty to file application to that effect. In view thereof, on the motion made by Mr. Tripathi, Petition is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression of merits either way. All contentions of the respondents are kept open. If such application is filed the same shall be decided on its own merits and in accordance with law. Order accordingly.

3. All parties, including the trial Court, to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)