

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

913 CIVIL APPLICATION NO. 4540 OF 2017
IN FA/4303/2008

M/S R K PATEL AND CO TOBACCO AND ANR
VERSUS
RAJDHAR KALU PATIL@PATEL (DIED) THR LRS VINOD R.
PATIL@PATEL AND ORS

...
Advocate for Applicants : Mr. Parikshit P. Dawalkar.
Advocate for Respondents : Mr. S. P. Shah.
...

CORAM : K.K. SONAWANE, J.

DATED : 07TH SEPTEMBER, 2017.

Order :-

Heard learned counsel for the applicant-appellant.

2. The applicant moved present application with prayer to delete the name of appellant No. 1(C) Shri. Kalyan Sahebrao Patel from the array of appellant in First Appeal No. 4303 of 2008. It has been contended that, the respondents initiated civil proceedings vide Special Civil Suit No. 1 of 1999 against the applicant, which is the partnership firm in between the partners Sahebrao Kalu Patel, Pravin Sahebrao Patel, Anusayabai Shaberao Patel and Kalyan Sahebrao Patel. The partner Sahebrao Kalu Patel is no more and he died during pendency of the suit. Thereafter, the memorandum of understanding

was executed in between legal heirs of Sahebrao Kalu Patel and other partners, wherein, the appellant No.1 (C) Kalyan Sahebrao Patel relinquished his all rights in respect of the applicant Partnership Firm including the rights of the trade mark of the firm, etc. Now, the appellant No. 1(C) Kalyan Sahebrao Patel has been retired from the applicant Firm and his status being a partner in firm came to an end. There is no propriety to continue the proceedings of First Appeal No. 4303 of 2008, by mentioning his name in the array of appellant as appellant No. 1(C) being one of the partner of the appellant firm. Therefore, applicant- Firm prayed to delete the name of appellant No. 1(C) from the array of the appellant in the title clause of the present appeal No. 4303 of 2008.

3. The learned counsel for the appellant No. 1(C) filed his additional affidavit on record, in which, he has specifically stated about his withdrawal from the partnership firm. Moreover, he has no objection for withdrawal of his all claims referred in the Special Civil Suit No. 1 of 1997 as well as First Appeal No. 4303 of 2008. The learned counsel for appellant Kalyan Sahebrao Patel @ Patil fairly conceded to delete his name from the proceedings by allowing the application. The learned counsel for respondents has no objection to allow the application. The additional affidavit of appellant Kalyan

Sahebrao Patil @ Patel is marked as 'X' for identification purpose.

4. In such circumstances, there is no impediment to delete the name of so-called appellant No. 1 (C) Shri. Kalyan Sahebrao Patil @ Patel from the array of the appellant shown in title clause of the First Appeal No. 4303 of 2008. Therefore, application stands allowed in terms of prayer clause 'B'. The requisite amendment be carried out to that effect within two weeks. Accordingly, application stands disposed of. After requisite amendment, matter be listed for further process on 4th October, 2017.

[K. K. SONAWANE]
JUDGE

RRD.