

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.852 OF 2016

Sojarbai Vishwanath Sonkamble

.Petitioner

Vs.

Pramod Vasant Belsare

.Respondent

Mr.Niranjan A.Mogre, Advocate, for the Petitioner

CORAM : R.G.KETKAR, J.

DATE : 16.03.2017

P.C.

. Heard Mr. Mogre, 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 09.12.2015 passed by the learned District Judge-21, Pune below Exh.12 in Civil Appeal No.488 of 2014. By that order, the learned trial Judge modified the Order dated 17.11.2014 passed by the learned Addl. District Judge, Pune below Exh.5 and stayed the trial Court's decree, till decision of Appeal subject to payment of costs of Rs.2,00,000/- by the Appellant alongwith the cost of the suit within five weeks from the date of the Order.

3. Mr. Mogre submitted that since the suit was instituted under Order XXXVII of the Code of Civil Procedure, 1908 (For short “CPC”), the Petitioner may be permitted to withdraw this Petition as also an Appeal with liberty to file the Application under Order XXXVII, Rule 4 of the CPC.

4. In view thereof, on the motion made by Mr.Mogre, Petition as also the Appeal, being Appeal No.488 of 2014 are allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression of merits either way.

5. The Petitioner shall produce authenticated copy of this order before the learned District Judge for withdrawal of the Appeal. Upon filing such Application, the learned District Judge will permit the Petitioner to withdraw the Appeal as also pass order of refund of Court fees as per rules. All parties including the learned District Judge to act upon authenticated copy of this Order.

(R.G.KETKAR, J.)