

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1989 OF 2017

Mr.Sunil Atmaram Mhatre .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.Saurabh A.Saxena, for the Petitioner.
Mr.Vikas Mali, AGP for State.
Mr.A.S.Rao, for Respondents No. 4 & 5.

**CORAM : NARESH H. PATIL &
M.S.KARNIK, JJ.**

20th MARCH, 2017

P.C. :

. The petitioner filed a Suit bearing Regular Civil Suit No.674 of 2016 in Kalyan Civil Judge, Junior Division, Kalyan in respect of communication/notice dated 28/03/2016 and order dated 09/05/2016 passed by the respondent – Corporation. By an application dated 09/12/2016, the petitioner prayed for withdrawal of the Suit in view of some settlement between the parties. By an order dated 09/12/2016, Civil Court allowed the Suit to be withdrawn.

2. Learned Counsel appearing for the petitioner raises issue that on the promise extended to the petitioner, Suit came to be withdrawn, but now the petitioner has realised that the Suit ought not to have been withdrawn. It is submitted that the Corporation had illegally demolished the petitioner's part structure. The subject road is not sanctioned one. Learned Counsel has referred to proceedings of some other Suit wherein the Corporation filed the list of roads to be widened in and around the subject area.

3. In the facts, we find that on identical cause and issue Suit was filed, but later on came to be withdrawn by the petitioner. In case the petitioner finds that there is a fresh cause of action for the petitioner, then appropriate alternate remedy is available to him. In the facts, no interference is warranted to exercise writ jurisdiction of the Court. Keeping all the issues on merits open, Writ Petition is disposed of.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)