

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 13359 OF 2016

Mayur Mangaldas Kothari

...Petitioner

Versus

Linky Hotels And Shopping Spot
Private Limited And Ors.

...Respondents

....

Ms. Deepti Panda a/w. Khyati Pandit i/.b. Dhru & Co. for the
Petitioner.

Mr. Suvaankoor Das i/b. Akhila Kaushik, Advocate for
Respondent No.3.

Mr. Siddharth Chandrashekhar i/b. Li Shv Fen, Advocate for
respondent No.5.

Mr.S.J. Khera, Advocate for Respondent No.6.

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CORAM : R. G. KETKAR, J.

DATE : 08th MARCH, 2017

P.C.

1. Heard Ms.Panda, learned counsel for the petitioner,
Mr.Das, learned Counsel for respondent No.3, Mr.
Chandrashekhar, learned Counsel for respondent No.5 and Mr.
Khera, learned counsel for respondent No.6, at length.

2. By this Petition under Article 227 of the Constitution of

India, the petitioner has challenged the judgment and order dated 23.11.2015 passed by the learned City Civil Court, Dindoshi, Mumbai below Exhibit-55 in Suit No.7034/1998. By that order, the learned trial Judge rejected the application made by the petitioner/original plaintiff for recalling him to face further cross-examination at the hands of defendant No.8.

3. Ms. Panda states that the petitioner is present in Court today. She has tendered photo-copy of driving licence of the petitioner, which is taken on record and marked 'X' for identification. Ms. Panda, upon taking instructions from the petitioner, has tendered unconditional apology for his behaviour as noted in the impugned order. She further states that the suit has progressed and the arguments are also concluded and the matter is posted tomorrow for submitting written arguments. She, therefore, seeks permission to withdraw this petition.

4. Mr. Khera has strongly opposed this application on the ground that defendant No.8 is dragged in the litigation right from the year 1998. If at all the Court is inclined to permit the petitioner to withdraw the petition, exemplary costs may be

awarded to defendant No.8.

5. As the petitioner is unconditionally withdrawing the Petition, I do not deem it appropriate to impose costs more so when the petitioner has tendered unconditional apology for his behaviour as reflected in the impugned order. Hence, Petition is allowed to be withdrawn and is disposed of as withdrawn. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)