

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

WRIT PETITION NO.3069 OF 2016

Haresh Virumal Milani	... Petitioner
Vs.	
Union of India	
through Defence Secretary & Ors.	... Respondents

Mr.Niranjan Mogre for the Petitioner
Dr.G.R. Sharma with D.P. Singh for Respondents

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: AUGUST 3, 2017**

P.C. :

1. Yesterday, this matter was argued and the order was dictated in the open Court and the Writ Petition was disposed of. However, prior thereto, at the end of the arguments in the second sitting, Mr.Mogre, learned Counsel appearing for the petitioner, had mentioned that his wife was to get discharge from the hospital and so he wanted to go early and hence, he requested me to conclude the matter in the first sitting. So, it was heard and order was dictated in the open Court on the presence of the learned advocates of both sides.

2. In the second sitting, at the end of the day, some advocate mentioned for Mr.Mogre and requested me not to sign the order as

Mr.Mogre wants to add something tomorrow. At that time, I gave a clear idea that I have already dictated the order and the transcript of the order is ready, however, in all fairness, I did not sign the order and kept it next day i.e., today's morning.

3. Today, at 12.28 p.m., when the matter was called out, Mr.Mogre was not present. Mr.Shivraj Kunchge, advocate, holding for Mr.Mogre, informed that not Mr.Mogre but now Mr.Nilesh Ojha wants to argue the matter for the petitioner. Yesterday, after arguing at length and after hearing the arguments of Union of India, during the open discussion, a point of amendment in the plaint arose. The learned Counsel Mr.Mogre sought some time to to obtain instructions and so after some time again, the matter was called out and at that time, he made a statement that he wanted to withdraw the suit as the petitioner wants to move an application under Order 6 Rule 17 of the Civil Procedure Code. Accordingly, the order was dictated in the open Court.

4. Thus, I reject the prayer made by Mr.Kunchge that now Mr.Nilesh Ojha will take over the matter and wants to argue it again. This is not a proper and correct practice in the High Court. Mr.Kunchge has then submitted that Mr.Mogre will come and he

has asked to keep the matter in the second sitting. I refused to do so as no adjournment can be given and the matter cannot be kept at 3 pm as it is already fixed today though the transcript of the order is ready. However, with a view to respect his prayer, I told him that I am keeping this matter at 12.45pm and ask Mr.Mogre to remain present, otherwise I will sign the order.

5. The matter was called out at 12.48 pm. Neither Mr.Mogre nor Mr.Kunchge are present and thus, yesterday's order i.e., 2.8.2017 is hereby maintained and signed.

(MRIDULA BHATKAR, J.)