

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 5112 OF 2017

Rajeshree Dashrath Karve ... Petitioner
Vs.
M/s. Ajib Investments Pvt. Ltd. & Ors. ... Respondents

Mr. Ajit M. Rajgole a/w. Mr. Abhijeet B. Desai, Advocate for the petitioner.

Mr. Rajesh Kachare, Advocate for respondent no. 1.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 14th June, 2017.

P.C.:

Rule. Rule made returnable forthwith. By consent, this Petition is heard finally and decided at the stage of admission.

2. This Writ Petition is directed against the order dated 16th March, 2017 passed by the learned Judge of City Civil Court, Borivali Division, Dindoshi thereby allowing the Application Exhibit 9 for withdrawal of the execution proceedings and also allowing the withdrawal of the amount of Rs. 5 lakhs deposited by the decree holder in the Court, as there is dispute in respect of consent terms by the parties.

3. Perused the order dated 16th March, 2017 and the consent terms. It appears that the decree holder is ready to perform as per the consent terms, however, the judgment debtor is not ready to accept any alternate proposal in respect of temporary accommodation. In view of this, no interference can be called for in the order passed by the learned Judge. Hence, Writ Petition is dismissed.

4. The learned counsel for respondent no. 1/decreed holder, on instructions, submitted that the decree holder wants to make an application for withdrawal of the suit. If such application for withdrawal of the suit is made by the decree holder before the trial Court, then it is to be decided on merits.

(MRIDULA BHATKAR, J.)