

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 678 OF 2015

Mr. Raghunath Balu Jadhav

...Applicant

Versus

Smt. Kusum Balu Jadhav @ Kusum
Pundalik Shinde And Ors

...Respondents

....
Mr.Sanjay A. Ghaisas, for the Applicant.
....

CORAM : R. G. KETKAR, J.

DATE : 16th JANUARY, 2017

P.C.

1. Heard Mr.Sanjay A. Ghaisas, learned Counsel for the applicant, at length.

2. By this application under Section 115 of Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the applicant, hereinafter referred to as 'defendant No.1' has challenged the judgment and order dated 2.7.2015 passed by the learned Jt. Civil Judge, Junior Division, Nashik below Exhibit-17 in R.C.S. No.206/2013. By that order, the learned trial Judge dismissed the application taken out by defendant No.1 under Order VII Rule 11(a) and (d) of C.P.C.

3. After arguing the application for quite sometime, Mr.Ghaisas seeks permission to withdraw application at Exhibit-17 with liberty to file fresh application giving all the requisite details as to why the plaint is liable to be rejected under Order VII Rule 11(a) and (d) of C.P.C. He submits that if such a liberty is given, all contentions of the plaintiff including maintainability of such application, may be kept open.

4. In view thereof, on the motion made by Mr.Ghaisas, application Exhibit-17 is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression on merits either way. All contentions of the plaintiff, including maintainability of such application, are expressly kept open. C.R.A. is disposed of in aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)