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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMONS FOR JUDGMENT NO. 2 OF 2017
IN
COMMERCIAL SUMMARY SUIT NO. 65 OF 2016**

M/s. Shah Steel Corporation .. Plaintiff
Vs.
M/s. Pavan Structural Pvt. Ltd. & Ors. .. Defendants

**WITH
CHAMBER SUMMONS NO. 116 OF 2017
IN
COMMERCIAL SUMMARY SUIT NO. 65 OF 2016**

Santosh Belkune & Ors. .. Applicants

In the matter between

M/s. Shah Steel Corporation .. Plaintiff
Vs.
M/s. Pavan Structural Pvt. Ltd. & Ors. .. Defendants

Mr. Kezer Kharawala i/b Lex Juris for the Plaintiff.
Mr. Gaurav Mehta i/b Apex Law partners for Defendant No.1.

CORAM : B. P. COLABAWALLA, J.
DATE : 10th NOVEMBER, 2017.

P. C. :

1. In this suit, a contention was raised by the defendant that since only a part of cause of action has arisen within the jurisdiction of this Court, leave under Clause 12 of the Letters Patent had to be obtained before the suit could be filed. Admittedly, leave was not obtained and therefore this Court has no jurisdiction to entertain and try the present suit.

In these circumstances he has submitted that there was no question of entering Judgment as prayed for by the plaintiff in the Summons for Judgment.

2. Faced with this situation, the learned counsel appearing on behalf of the plaintiff had taken time on the last occasion to take instructions in the matter. Today after taking instructions from his client he seeks leave to withdraw the suit with liberty to file a fresh suit after obtaining the necessary leave under Clause 12 of the Letters Patent.

3. Leave is accordingly granted and the suit is dismissed as withdrawn with liberty as prayed. It is made clear that all contentions of both the sides are expressly kept open which can be canvassed in the subsequent suit that is to be filed by the plaintiff, if any. Refund of Court fees as per rules, if any.

4. In view of the suit itself being withdrawn, nothing survives in the Summons for Judgment and the Chamber Summons and the same are disposed of accordingly.

[B. P. COLABAWALLA, J.]