

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 91 OF 2017
IN
TESTAMENTARY SUIT NO. 5 OF 2017

Bharat Rasiklal Ashra

**..... Applicant/
Org.Defendant**

IN THE MATTER OF

Gautam Rasiklal Ashra

..... Plaintiff

VERSUS

Bharat Rasiklal Ashra

..... Defendant

Ms.Priyanka Kothari, a/w. Ms.Siddhi Doshi, i/b. M/s.Bilawala & CO. for the Plaintiff.

Mr.Suneet Moholkar for the Applicants in CST/91/2017.

CORAM : R.D. DHANUKA, J.

DATE : 28th JUNE, 2017

P.C.

Learned counsel appearing for the applicant (original defendant) tenders his personal affidavit affirmed on 27th June, 2017 and seeks liberty to withdraw this chamber summons with liberty to file a fresh chamber summons with the correct affidavit for the reasons recorded in the said affidavit. The affidavit dated 27th June, 2017 is taken on record. In view of the affidavit dated 27th June, 2017 and for the reasons recorded therein, I am inclined to accept the statements made in the said affidavit and to grant liberty to the applicant to withdraw Chamber Summons No.91 of 2017 with liberty to file fresh chamber summons.

2. Chamber Summons No.91 of 2017 is accordingly dismissed as withdrawn

with liberty as prayed. No order as to costs.

3. The applicant shall file a fresh chamber summons within three weeks from today and shall serve a copy thereof upon the plaintiff's advocate simultaneously. Affidavit in reply if any, in the said chamber summons shall be filed within one week from the date of service of the chamber summons.

4. Place such chamber summons along with Notice of Motion No.49 of 2017 on board after **six weeks**.

(R.D.DHANUKA, J.)