

Amk

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

**NOTICE OF MOTION NO. 476 OF 2017
IN
COMMERCIAL SUIT NO. 319 OF 2017
WITH
SUMMONS FOR JUDGMENT NO. 62 OF 2017
IN
COMMERCIAL SUIT NO. 319 OF 2017**

Vidarbha Industries Power Ltd. .. Plaintiff
Vs.
Sicom Realty Ltd. & Anr. .. Defendants

Mr. Akshay Patil a/w. Mr. Kiran Padalkar i/b India Law Alliance for the Plaintiff.

Ms. Sapna Rachure i/b T. N. Tripathi & Co. for Defendant No.1.

Mr. Hemant Prabhulkar a/w. Yash Bhoge i/b Jurisperitus Mumbai for Defendant No.2.

CORAM : B. P. COLABAWALLA, J.

DATE : 10th NOVEMBER, 2017.

P. C. :

1. This Notice of Motion has been filed by defendant No.2 seeking dismissal of the above Summary Suit against it under Order 7 Rule 11 of the Code of Civil Procedure, 1908. Learned counsel appearing for defendant No.2 brought to my notice that even though in the plaint no relief is sought against defendant No.2, in the Summons for Judgment, the decree is also sought against defendant No.2 in the sum of Rs.3.99 Crores. Faced with this situation, learned counsel appearing for defendant No.2 fairly stated on instructions before me that no reliefs in the plaint are

sought against defendant No.2 and even the Summons for Judgment will not be pressed against defendant No.2. In view of this statement, learned counsel appearing on behalf of defendant No.2 states that nothing survives in this Notice of Motion and hence seeks leave to withdraw the same.

2. Leave is, accordingly, granted.

3. Notice of Motion is dismissed as withdrawn. No order as to costs.

4. As far as Summons for Judgment is concerned, the plaintiff shall file its affidavit-in-rejoinder, if any, in the Registry on or before 15.11.2017 and serve a copy of the same on the Advocate for defendants.

5. Place the Summons for Judgment for hearing on 23.11.2017.

[B. P. COLABAWALLA, J.]