

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

SUIT NO.273 OF 2017

Narendra Nihal Vazirani	..	Plaintiff
Vs.		
Kamlesh Sunder Vazirani	..	Defendant

Mr.Praveer Diwan a/w Mr.Siddharth Samantaray i/by M/s.Kanga & Co. for the plaintiff.

Mr.Mustafa Kachwala i/by M/s.Kachwala Misar & Co. for the defendant.
Mr.Narendra Nihal Vazirani, plaintiff in-person present.

CORAM : R.D. DHANUKA, J.
DATE : 6th November 2017

P.C.:

1. Mr.Diwan, learned counsel appearing for the plaintiff, on instructions, states that pursuant to the order passed by this Court on 25th July 2017 in Testamentary Suit No.47 of 2014 with Notices of Motion Nos.90 of 2014, 91 of 2014 and 244 of 2016 in Testamentary Suit No.1758 of 2013, the defendant herein has cancelled the Deed of Transfer dated 30th September 2015 and has also registered the said cancellation deed. In view of the defendant having cancelled the Deed of Transfer dated 30th September 2015 and has registered the said cancellation deed, learned counsel for the plaintiff seeks liberty to withdraw this suit with liberty to file a fresh suit in the event of the defendant taking any action pursuant to the said Deed of Transfer dated 30th September 2016 and taking any action in respect of the properties which are the subject matter of this suit.

2. I have heard the learned counsel for the parties. Suit No.273 of 2014 is allowed to be withdrawn with liberty as prayed. Refund of

Court fees, if any, as per rules. If any interlocutory proceedings is pending, the same is disposed of.

3. It is not in dispute that the said Transfer Deed dated 30th September 2015 is already cancelled by the defendant by executing a separate cancellation deed dated 6th September 2017. In view of the said Deed of Transfer having been already cancelled, the defendant cannot act upon the said Deed of Transfer dated 30th September 2015.

R.D. DHANUKA, J.