

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.9573 OF 2018**

Indramani S. Mishra	]	Petitioner
Vs.		
Kamal Pasha Zaidi	]	Respondent

.....

Ms. Manjiri S. Parasnis, for Petitioner.
Mr. Ashif Shaikh i/b Khan Javed Akhtar, for Respondent.

....

CORAM : R.G. KETKAR, J.

DATE : 26th SEPTEMBER, 2018.

P.C:

Heard Ms. Parasnis, learned Counsel for the petitioner and Mr. Shaikh, learned Counsel for the respondent.

2. This Petition takes exception to the order dated 26th February, 2018 passed by the learned Judge, Court Room No.26 of the Court of Small Causes at Mumbai below Exhibit 54 in R.A.E & R Suit No.1258/1901 of 2010. By that order, the learned trial Judge rejected the application filed by the petitioner/defendant under section 10 of the Code of Civil Procedure, 1908 (for short 'C.P.C') for staying the suit filed in the Small Causes Court at Mumbai in view of pendency of Suit No.2729 of 2002 filed by the respondent/plaintiff on the Original Side of this Court.

3. Ms. Parasnis has tendered copy of the order dated 4th September, 2018. The same is taken on record and marked 'X' for identification. She

submitted that the respondent/plaintiff has unconditionally withdrawn the suit. As the suit instituted on the Original Side of this Court is withdrawn, the application filed by the petitioner under section 10 is rendered infructuous.

4. In view thereof, Petition is disposed of as infructuous. Order accordingly.

[R.G. KETKAR, J.]