

dik

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5377 OF 2018

Sunil Dnyandeo Kudale	...Petitioner
vs	
Indrakumar Bhimraj Chhajed & Ors.	...Respondents

.....
Mr Sandesh Patil i/b Pavan Patil for the Petitioner.
Ms Manjiri Parasnis for Respondent Nos.2A to 2D.
Mr M.A.Anjith i/b Nikhil Mallelwar for Respondent No.13
.....

**CORAM : B.P.COLABAWALLA, J.
DECEMBER 14, 2018.**

P.C. :

By this Writ Petition the Petitioner challenges the order below Exh. 48 dated 23rd April, 2018 (wrongly mentioned as 12th April, 2018) passed in Special Darkhast No. 10 of 2017. The ground on which this order is challenged is that the Petitioner has suffered an ex-parte decree and for setting aside the same an application under Order IX Rule 13 of the Code of Civil Procedure, 1908 was made and which is pending before the Trial Court. Despite that application, the executing Court is proceeding with execution of the decree. It is in these circumstances that the present Writ Petition has been filed.

2 After this matter was argued for some time, learned

advocate appearing on behalf of the Respondents fairly stated that they shall not proceed with the execution proceedings pending the outcome of the application filed by the Petitioner under Order IX Rule 13 of the CPC for setting aside the ex-parte decree. The Petitioner is satisfied with this statement and states that in view of this statement he does not want to press this petition any further and hence seeks leave to withdraw the same.

3 In these circumstances and considering the statement made on behalf of the Respondents which is accepted as an undertaking to this Court, this Writ Petition is dismissed as withdrawn. However, there shall be no order as to costs.

(B.P.COLABAWALLA, J.)