

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Revision Application NO. 367 OF 2018

Mrs. Mamta Deodatta Ghorpade

...Applicant

Versus

Church Of North India Trust Association

Maharashtra Committee Through its CA

Mr. David Koil Pillai And Ors

...Respondents

....

Mr. Jaydeep Deo, Advocate for the Applicant.

Mr. Prashant Darandale, Advocate for the Respondents.

....

CORAM : R. G. KETKAR, J.

DATE : 16th JULY, 2018

P.C.

1. Heard Mr. Jaydeep Deo, learned counsel for the applicant and Mr. Prashant Darandale, learned counsel for the respondents, at length.
2. By this application under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the applicant, hereinafter referred to as the 'defendant', has challenged the order dated 3.3.2018 passed by the learned Additional Small Causes Judge & Jt. Civil Judge, Senior Division, Pune below Exhibit-93 in Civil Suit No.50/2014. By that order, the learned trial Judge rejected the application filed by the defendant under Order VII Rule 11(d) of C.P.C. for rejecting the plaint.
3. The matter was heard at length on 12.7.2018 and was adjourned till today for passing order. The matter was adjourned so as to enable Mr. Deo to take instructions as to whether the defendant is ready and willing to

issue notice to respondent No.1 calling upon them to produce the Trust Deed or Constitution and thereafter file application under Order VII Rule 11(d) of C.P.C.

4. Mr. Deo, on instructions, states that within one week from today, the defendant will issue notice to respondent No.1 for production of the Trust Deed or Constitution and within two weeks thereafter will take out fresh application under Order VII Rule 11(d) of C.P.C., if so advised, in the trial Court. He, therefore, seeks permission to withdraw this application with aforesaid liberty.

5. Mr.Darandale, on instructions, does not object to this course of action.

6. In view thereof, on the motion made by Mr. Deo, C.R.A. is allowed to be withdrawn with liberty as aforesaid. The defendant shall issue notice to respondent No.1 within one week from today to produce the Trust Deed or Constitution, as the case may be. Within two weeks from receipt of the Trust Deed or Constitution, the defendant will take out application under Order VII Rule 11 (d) of C.P.C. for rejection of the plaint, if so advised. All contentions of the respondents in the proposed application are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)