

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 7300 OF 2017

Bipin Ratilal Sakarwala	]	Petitioner
Vs.		
Nainesh Madhav Patil	]	Respondent

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Mr. Vivek Kantawala a/w Amey Patil i/b Vivek Kantawala & Co, for Petitioner.
Mr. Rajesh Patil, for Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 15TH OCTOBER, 2018.

P.C:

Heard Mr. Kantawala, learned Counsel for the petitioner and Mr. Patil, learned Counsel for the respondent at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as 'plaintiff' has challenged the judgment and decree dated 6th April, 2016 passed by the learned Judge presiding over Court Room No.25 of the Court of Small Causes at Mumbai in R.A.D. Suit No.58 of 2013 as also the judgment and decree dated 25th April, 2017 passed by the Appellate Bench of the Court of Small Causes at Mumbai in 2b-ii Appeal No. 224 of 2016 . By these orders, the Courts below dismissed the suit filed by the plaintiff.

3. After arguing the Petition for quite some time, on instructions from the petitioner, who is present in the Court, Mr. Kantawala seeks permission to withdraw the Petition with liberty to adopt appropriate

proceedings as permissible in law. He has tendered photo copy of his Aadhar Card, which is taken on record and marked 'A' for identification. He further submitted that time spent by the petitioner in prosecuting the suit from 2013 till date may be excluded while considering the period of limitation. Mr. Patil opposed this request.

4. Having regard to the fact that the petitioner wishes to withdraw the Petition for adopting appropriate proceedings, I find that request made by Mr. Kantawala is reasonable. Hence, Petition is allowed to be withdrawn with liberty as prayed for. It is made clear that appropriate proceedings will not include filing of the proceedings in this Court or in any other Court challenging the orders impugned herein. As the petitioner was bona fide prosecuting remedies in the Courts below and this Petition, time spent by him from 2003 till today shall be excluded while considering the question of limitation. Order accordingly.

[R.G. KETKAR, J.]