

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 2 OF 2015

State Bank of India ...Appellant

Versus

Pandurang Mahadeo Bolke & Ors. ...Respondents

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Mr.Akbar Rizvi i/b. AKS Legal Consultants for the Appellant.

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CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **FEBRUARY 16, 2018**

P.C.:

1. The learned Counsel for the appellant submits that the appellant/ plaintiff has filed suit for recovery of Rs. 95,478.82 from the respondents/ defendants. He further submits that the account is settled between the plaintiff and defendants. Now, there is no dispute between the parties and hence, he seeks permission to withdraw this Appeal. He further submits that the original suit was dismissed and, therefore, Notice of Motion No. 3002 of 2013 was taken out by the plaintiff for setting aside the order of dismissal dated

13.03.2013. By order dated 16.06.2014, the learned Judge, City Civil Court, Mumbai dismissed the said Notice of Motion. Against the said order, the appellant has filed this Appeal.

2. The affidavit of service on the respondents is filed, which is taken on record. The affidavit of service shows that the appellant has tried to serve the respondents by courier. The receipts of courier and the sealed envelopes are annexed to the affidavit of service.

3. The learned Counsel for the appellant produces a letter of the Assistant General Manager, State Bank of India, Stresses Assets Recovery Branch, Mumbai. He submits that he has received this letter with instructions that in view of the settlement between the parties as Pandurang Mahadeo Bolake has liquidated the loan amount and he was directed to withdraw and apply for refund of court fees, if any. He further submits that the Appeal be registered so that the appellant can get refund of court fees.

4. None appears for the respondents though served. In view of the submission of the learned counsel for the appellant, this Appeal is allowed and the suit is restored to its original file, as the appellant

wants to withdraw the said suit and apply for the refund of court fees.

5. With this, Appeal from Order is disposed of.

(MRIDULA BHATKAR, J.)