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|---------------------------|-----|------------|
| Chandradev Dakshini Singh | ... | Applicant  |
| Vs.                       |     |            |
| Laxmibai Raghunath Dalvi  | ... | Respondent |

Mr. Vikas K. Singh for Applicant.  
Mr. Shashank Choudhary i/b. Mr. Sachin Masurkar for Respondent.

**CORAM : R. G. KETKAR, J.**  
**DATE : SEPTEMBER 25, 2018**

P.C. :

Heard Mr. Singh, learned Counsel for the applicant and Mr.Choudhary, learned Counsel for the respondent at length.

2. This Application takes exception to the order dated 04.05.2017 passed by the Appellate Bench of the Small Causes Court in A-1 Appeal No.51 of 2011. By that order, the Appellate Court allowed the appeal preferred by the respondent / defendant and set aside the judgment and decree dated 30.04.2011 passed by the learned trial Judge in R.A.E.Suit No.308 of 2005. The Appellate Court dismissed the Suit instituted by the applicant-plaintiff. In paragraph 7 of the impugned order, the Appellate Court observed that the matter was kept for reply argument of the applicant herein. In spite of offering opportunity, applicant herein failed to argue the appeal. The Appellate Court accordingly proceeded to decide the appeal on merits.

3. Mr. Singh submits that applicant is present in the Court. He has tendered photocopy of his PAN Card, which is taken on record and marked 'X' for identification. Upon taking instructions from him, he seeks liberty to withdraw the Petition with liberty to file Petition seeking

review of the impugned order before the Appellate Bench of the Small Causes Court within 3 weeks from today.

4. The C.R.A. is filed in this Court on 23.08.2017. As there was delay of 2 days, application for condonation of delay was taken out, which was allowed. In view thereof, if the applicant intends to file the Petition seeking review of the impugned order within three weeks from today, on the motion made by Mr. Singh, Application is allowed to be withdrawn with liberty as prayed for. The Appellate Court will decide the same on merits and shall not reject the Petition on the ground that it is barred by limitation. All contentions of the parties on merits are expressly kept open. C.R.A. is disposed of accordingly.

**(R. G. KETKAR, J.)**

Minal  
Sandip  
Parab

*Minal Parab*