

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 9686 OF 2018

M/s. Pahlajani Developers Pvt. Ltd.] Petitioner
Vs.
Nidhi Ajaykumar Jhunhunwalla and others.] Respondents

.....

Mr. Udyan S. Jain, for Petitioner.
Mr. Dattatray P. Adavkar, for Respondents No.4 and 5.

.....

CORAM : R.G. KETKAR, J.

DATE: 31st OCTOBER, 2018.

P.C.

Heard Mr. Jain, learned Counsel for the petitioner and Mr. Adavkar, learned Counsel for respondents No.4 and 5.

2. This Petition takes exception to the order dated 14th March, 2018 passed below Exhibit 75 in R.A.E. Suit No.1217/1937 of 2003 by the learned Judge, Court Room No.6 of the Court of Small Causes at Mumbai. By that order, the learned trial Judge rejected the application made by the plaintiff under Order-XVIII, Rule-3-A of the Code of Civil Procedure, 1908 (for short 'C.P.C') for examining defendant No.2-Ajaykumar Radhyeshyam Jhunhunwala as P.W.2.

3. After arguing the Petition for quite some time, Mr. Jain seeks permission to withdraw this Petition with liberty to file appropriate application before the learned trial Judge. Mr. Advakar submitted that in case, the Court is inclined to grant liberty to the petitioner to file appropriate application, all contentions including contention about maintainability of such application may be kept open.

4. In view thereof, on the motion made by Mr. Jain, Petition is allowed to be withdrawn with liberty as prayed for and as such is disposed of. Grant of liberty shall not be construed as an expression of merits either way. All the contentions of the parties are expressly kept open. Order accordingly.

[R.G. KETKAR, J.]