

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 3174 OF 2017
WITH
CIVIL APPLICATION NO.748 OF 2018

Romualdo D'Souza] Petitioner

Vs.

Roosbeh Mundegar Aga] Respondent

.....

Mr. Clive D'Souza, for Petitioner.
Mr. V.Y. Sanglikar, for Respondent.

.....

CORAM : R.G. KETKAR, J.

DATE : 3RD APRIL, 2018.

P.C.

Heard Mr. D'Souza, learned Counsel for the petitioner and Mr. Sanglikar, learned Counsel for the Respondent.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 4th October, 2016 passed by the learned Judge, Court Room No.10, Court of Small Causes at Mumbai below Exhibit 56 in R.A.E. Suit No.765/1233 of 2007. By that order, the learned trial Judge rejected the application made by the defendant for amending written statement.

3. Mr. D'Souza on instructions seeks permission to withdraw the Petition. Mr. Sanglikar has no objection.

4. In view thereof, on the motion made by Mr. D'Souza, the Petition is allowed to be withdrawn and is dismissed as withdrawn.

5. In view of disposal of main Petition, Civil Application No.748 of 2018 is disposed of.

6. It is, however, expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in memorandum of Appeal as contemplated by Section 105(1) of C.P.C.

[R.G. KETKAR, J.]