

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUIT NO. 408 OF 2015
WITH
NOTICE OF MOTION NO. 780 OF 2015**

Mahendar Puri

...Plaintiff

vs.

Hind Terminals Pvt.Ltd. & Ors.

...Defendants

Ms.Swati Deshpande I/b. MDP & Partners for Plaintiff.

Mr.Dhraj D. Chavan I/b. Deven Dwarkadas & Partners for Defendant No.1.

Ms.Karishma Shirke I/b. Gordhandas & Fozdar for Defendant No.5.

CORAM : S.C. GUPTE, J.

DATE : 12 OCTOBER 2018

P.C. :

Learned Counsel for the Plaintiff seeks leave to withdraw the suit. Learned Counsel submits that her client is not interested in prosecuting the suit.

2 Learned Counsel for Defendant No.1 prays for an order of costs. Learned Counsel submits that the Plaintiff had earlier filed a winding up petition against the Defendant herein. The petition was dismissed and the matter was carried in appeal and even the appeal was dismissed by the appeal court. Learned Counsel submits that in the premises, heavy costs should be ordered against the Plaintiff. It may be seen from the record of the case that the claims made and reliefs sought in the winding up petition and the suit herein are completely separate and different. In the winding up petition, a debt was claimed by the Plaintiff herein in respect of dues owed by the company to him as past remuneration, whereas the present

suit concerns a purported agreement between the parties for giving stock options to the Plaintiff. The reliefs are completely different and are agitated in separate proceedings. The trial has not even commenced as of date.

3 In the premises, the Plaintiff is permitted to withdraw the suit unconditionally. The suit is dismissed as withdrawn. No order as to costs. Refund of court fees in accordance with the applicable rules.

4 In view of the disposal of the suit, the notice of motion does not survive and the same is also disposed of.

(S.C. GUPTE, J.)