

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13791/2018

Jaivantrao Tulshiram Bhandare

... Petitioner

V/s.

Babita Bai Narayan Korake & Ors.

... Respondents

Mr. Ketan Joshi for the Petitioner

Mr. Ajay A. Joshi for the Respondents

CORAM: K.K. TATED, J.

DATED : FEBRUARY 27, 2019

P.C. :

1 Heard. By this petition under Article 227 of the Constitution of India the Petitioner - Plaintiff challenges the order dated 03.09.2018 passed by the Civil Judge, Senior Division, Pandharpur below Exhibit- 128 in Special Civil Suit No. 35/1997 by which the Trial Court rejected the Application for amendment made by the Plaintiff under order 6 rule 17 of the Code of Civil Procedure, 1908.

2 The learned counsel for the Petitioner submits that he received instructions from his client to withdraw the Writ Petition with liberty to file appropriate Application before the appellate court in Regular Civil Appeal No.93/2012 for the same cause of action. To that effect, he has given in writing. Same is taken on record and marked "X" for identification.

3 Hence, following order is passed:

- a. The Writ Petition stands disposed of as withdrawn with liberty as prayed for.
- b. Liberty granted to the Plaintiff to file appropriate Application for amendment of the plaint before the appellate court in Regular Civil Appeal No.93/2012 on or before 20.04.2019. The said Application shall be decided on its own merits after hearing both sides, without being influenced by the order dated 03.09.2018 passed by the Civil Judge, Senior Division, below Exhibit- 128 in Special Civil Suit No. 35/1997.
- c. No order as to costs.

(K. K. TATED, J.)