

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.1849 OF 2019

Naveenchandra Pranpati Pandey	]	Petitioner
Vs.		
Ashish Surendramani Tripathi & Ors.	]	Respondents

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Mr. Vilas Tapkir a/w Mr. J.S. Yadav, Advocate for the Petitioner.
Mr. G.N. Salunke a/w Ms. Kalpana Tripathi, Advocate for Respondent No.1

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CORAM : R.G. KETKAR, J.

DATE : 8TH FEBRUARY, 2019.

P.C.

Heard Mr. Tapkir, learned Counsel for the petitioner and Mr. Salunke, learned Counsel for respondent No.1 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as 'applicant' has challenged the order dated 24th December, 2018 passed below Exhibit 31 in Special Civil Suit No.121 of 2018 by the learned Joint Civil Judge, Senior Division, Kalyan. By that order, the learned trial Judge rejected the application filed by the applicant for taking on record written arguments dated 2nd November, 2018.

3. In support of this Petition, Mr. Tapkir submits that the applicant had filed application in Special Civil Suit No.121 of 2018 for impleading him as 'defendant'. The applicant thereafter took out present application for taking written arguments on record. By the impugned order, the learned trial Judge rejected the application.

4. After arguing the Petition for quiet some time, Mr. Tapkir states that the applicant is present in the Court. He has tendered photo copy of his Identity Card issued by Central Railway Headquarters, Mumbai, which is taken on record and marked 'A' for identification. Upon taking instructions from him, he seeks permission to withdraw the Petition.

5. Upon the motion made by Mr. Tapkir, Petition is allowed to be withdrawn and as such is disposed of. 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.]