

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

**LEAVE PETITION NO. 77 OF 2019
IN
SUIT NO. 525 OF 2019**

Dr.Kunal Ashok Mandlik

...Petitioner /
Plaintiff

Versus

Sunanda Ashok Mandlik & Ors.

...Respondents/
Defendants

.....
Mr.S.A.Sawant a/w. Mr.Himanshu Kode and Mr.Abhishek Matkar
for the Petitioner/Plaintiff.
Mr.Rohan Sawant a/w. Mr.Sanjay Gawade for the Respondents/
Defendants.

.....
CORAM:
DATE:

R. I. CHAGLA, J.
10TH OCTOBER, 2019

PC:-

1. This Leave Petition had been filed on 21st February, 2019. The Leave Petition came to be numbered on 29th March, 2019. One day prior to the Leave Petition being numbered, the Suit itself came to be numbered on 30th March, 2019. It appears that the Leave Petition had been filed prior to numbering of the Suit.

2. In order to avoid such controversy, the learned Counsel for the Plaintiff seeks permission to withdraw the Suit with liberty to file a fresh Suit on the same cause of action. Considering the circumstances of the case and particularly since the Leave

Petition had been filed prior to numbering of the Suit, it would be appropriate to grant permission to the Plaintiff to withdraw the Suit with liberty as prayed for.

3. The department is directed to refund the court fees in accordance with the rules, which have been paid by the Plaintiff at the time of filing the Suit. Accordingly, the Suit is disposed of as withdrawn with liberty as prayed for and in view of withdrawal of the same, the Leave Petition does not survive and the same is accordingly disposed of.

(R I. CHAGLA, J.)