

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6524 OF 2017

(ARCO Roadlines, thr. Its Director. ..VS.. SARGAM SPEICES PVT. LTD.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.D. Lakhey, Adv. for petitioner.

CORAM : Z.A.HAQ, J.
DATED : 19th AUGUST, 2019

None appears for the respondent, though served.
Heard Shri M.D. Lakhey, Advocate for the petitioner.

By the impugned order, the learned Trial Judge has permitted the respondent/plaintiff to abandon the claim made by the plaintiff vide prayer clause (1) of the plaint. The contention of the petitioner/defendant is that the trial Court has committed an error by allowing the plaintiff to amend the plaint after the trial has commenced and after recording of evidence of the plaintiff's witness is complete.

In my view, the challenge to the impugned order is misdirected as Order XXIII Rule 1 of the Code of Civil Procedure enables the Court to permit the plaintiff to abandon any part of his claim at any stage of the civil suit. It cannot be said that the learned trial Judge has committed any illegality or error of jurisdiction by allowing the application (Exhibit 64) filed by the plaintiff.

Hence, I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

Trupti