

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

35 WRIT PETITION NO.2131 OF 2020

M/S HULE CONSTRUCTIONS PVT LTD THROUGH MANAGING
DIRECTOR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. J.N. Singh h/f Mr. Kulkarni
Ashutosh S.
AGP for Respondent/State : Mr. S.K. Tambe
...

**CORAM : ROHIT B. DEO, J.
DATED : 04th FEBRUARY, 2020.**

PER COURT:-

1. The petitioner is the plaintiff in Special Civil Suit No.2 of 2016.

2. Vide Exhibit-167, the petitioner-plaintiff requested the Trial Court to “send the matter to Lok Adalat for the purpose of withdrawal”.

3. The petitioner-plaintiff contended that he is not intending to prosecute the suit and intends to withdraw the suit without prejudice to its legal rights. The petitioner-plaintiff then contended that since he has paid a huge amount as court fees, the suit be placed before the Lok Adalat for the purpose of withdrawal of the suit to enable the petitioner-plaintiff to have refund of the court fees.

4. Defendants objected contending that if the plaintiff wishes to withdraw the suit unconditionally, the question of placing the matter before the Lok Adalat does not arise.

5. The Trial Court noted the provisions of Section 89 of the Civil Procedure Code and the provisions of the Legal Services Authorities Act, 1987 and held that there cannot be a reference to Lok Adalat without the consent of the contesting parties and at the unilateral request of the plaintiff, no reference is permissible. The Trial Court then noted that the provisions of Order 27 Rule 5-B which refers to the duty of the Court in suit against Government or a public officer to assist in arriving at a settlement is applicable. It is not the case of the petitioner-plaintiff that the dispute is settled. To the contrary, the plaintiff is seeking to withdraw the suit without prejudice to its rights.

6. No fault can be found with the order impugned. The petition is dismissed.

(ROHIT B. DEO, J.)