

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.342 OF 2021
WITH
INTERIM APPLICATION NO.2977 OF 2021
IN
APPEAL FROM ORDER NO.342 OF 2021**

Kiran Shivaji Sunka ... Appellant
V/s.
Bhakarm Khojaram Bishnoi ... Respondent

Mr.Anil S. Kharatmol for the Appellant.

Mr.Kushaan Rajendra Solanki for the Respondent.

CORAM : A.S. GADKARI, J.
DATE : 17th November 2021.

PC. :

1. At the outset, the learned advocate for the Respondent raised a preliminary objection and submitted that, the present Appeal filed under Order 43 Rule 1 of Civil Procedure Code, is not maintainable as the Order impugned herein is passed under Order 7 Rule 11 of Civil Procedure Code.
2. Facing with the said difficulty, the learned advocate appearing for the Appellant seeks leave to withdraw present appeal with liberty to file a substantive Petition / Revision Application impugning Order dated 20th March, 2021 passed in Draft Notice of Motion filed in Suit No.1135 of 2020.

3. Leave and liberty granted.
4. Appeal is dismissed as withdrawn with aforesaid liberty.
5. In view of dismissal of Appeal itself, Interim Application No.2977 of 2021 does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]