

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO.12701 OF 2022

SHOBHAJI ASHRUBA GORE
VERSUS
SHAHABAI TUKARAM GADADE

...

Advocate for Petitioner : Mr Amar Vinayakrao Lavte

CORAM : SANDEEP V. MARNE, J.
DATE : 14th DECEMBER, 2022

PER COURT :

1. Petitioner is aggrieved by order dated 28.07.2022 passed by the Jt. Civil Judge, Senior Division, Dharur, Dist. Beed in Regular Civil Suit No.65 of 2012 rejecting his application seeking withdrawal of the suit with liberty to file the same afresh.

2. The only reason pleaded in para No. 4 of the application at Exh. 78 is that petitioner/plaintiff is likely to fail in the suit. The learned counsel for petitioner during the course of his submissions contended that the suit was originally premised on oral agreement and later the plaintiff has noticed the written agreement dated 03.11.2009 under which the defendant had agreed to sale property in favour of the plaintiff. He submits that on account of fault of the previous advocate, the said agreement or contents thereof could not be brought on record. He submits that the application seeking amendment of the plaint to bring averments regarding the agreement on record has already been rejected by the trial court.

3. It appears that after having failed in the amendment application to bring on record the averments relating to the agreement dated 03.11.2009, the plaintiff appears to have applied seeking withdrawal of the suit with liberty to file a fresh suit so as to incorporate the averments in the matter.

4. This in my view, cannot be countenanced. The trial court has rightly rejected the application.

5. The writ petition is devoid of merits and the same is dismissed without any orders as to cost.

[SANDEEP V. MARNE, J.]

mta