

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

WRIT PETITION NO.4916/2022

Ramchandra Health Care (L.L.P) Through its Authorized designated partner
and Chief Managing Director Narendra Ramchandra Borkar

...Versus...

Pawan Prabhakar Pundkar

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

Court's or Judge's orders

Shri A.M. Sudame, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 18/08/2022

1. Heard Shri Sudame, learned counsel for the petitioner.

2. The application at Exh.86 filed by the plaintiff to withdraw the suit with liberty to file afresh, has been rejected by the learned Trial Court (pg.32) on the ground that no case is made out for granting liberty to file the suit afresh. It is a trite position of law that in case a plaintiff wants to withdraw the suit unconditionally, the Court has no option than to permit him to do so as that is his right. However, in a case where liberty is sought, the Court has to consider the relief claimed in toto and in case the Court holds that the liberty is not to be granted to file a fresh suit, it will decline to grant the relief of withdraw of the suit.

3. In the instant case, the position is that the plaintiff has already filed an application for amendment below Exh.59 for bringing the subsequent events on record. That being the position, the suit can be continued in case it is permitted to be amended as against the proposed defendants who are to be added. In the present case, since the application for amendment is already pending, by which, the subsequent events can be brought on record in the same suit and so also parties can be added against whom grievance is being raised, there is no necessity for granting any liberty, considering which, I do not find any reason to interfere in the impugned order. The writ petition is accordingly dismissed. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar