

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.17 OF 2023
WITH
INTERIM APPLICATION NO.197 OF 2023
(FOR STAY)
IN
SECOND APPEAL NO.17 OF 2023**

Usman Mehboobsab Mulla

...Appellant/
Applicant

V/s.

Sana Javed Mulla & Anr.

...Respondents

Mr. Prasad P. Kulkarni, for the Appellant/Applicant.

**CORAM : MADHAV J. JAMDAR, J.
DATE : 19th JANUARY, 2023**

P.C.:

1. Heard Mr. Prasad P. Kulkarni, learned counsel appearing for the Appellant.

2. Mr. Kulkarni states that, by the impugned Judgment and Decree of the learned First Appellate Court by setting aside the Order passed by the learned executing Court, the matter was again remanded to the executing Court. He therefore, states that, the Second Appeal is not maintainable. He seeks withdrawal of the Second Appeal with liberty to

adopt appropriate proceedings.

3. Accordingly, the Second Appeal is allowed to be withdrawn with liberty to adopt appropriate proceedings. It is clarified that, this Court has not examined the merits of the matter and all the contentions on merits are expressly kept open.

4. The Second Appeal is disposed of in above terms with no order as to costs.

5. In view of dismissal of the Second Appeal, nothing survives in the Interim Application and the same is also disposed of.

(MADHAV J. JAMDAR, J.)