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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2848 OF 2007**

Kamta Prasad S/o Shriram ...Petitioner
Versus
Kalyan Dombivli Municipal Corporation & Ors ...Respondents

Ms Swati Chheda, i/b MP Vashi & Associates, for the Petitioner.
Mr AS Rao, for the Respondent.

**CORAM G.S. Patel &
 Neela Gokhale, JJ.**
DATED: 3rd March 2023

PC:-

1. The Petition was filed on 31st January 2007. The litigation itself was preceded by a long series of litigations going back to the year 1995. The Writ Petition challenges a termination order of 19th October 2002. On 19th January 2010, a Division Bench of this Court said that there was no adequate explanation for the delay. The Court dismissed the Writ Petition. The Petitioner filed a Review Petition No 52 of 2010. That was dismissed for default on 9th March 2010. The Petitioner filed the Civil Application No. 126 of 2010 seeking a restoration of the Review Application.

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2. A Division Bench of this Court on 20th June 2012 allowed the Civil Application and restored the Review Application.

3. The Review Application was taken up immediately. The Division Bench found that there was no case made out for a review of its 19th January 2010 order and therefore dismissed the Review Petition. The Petitioner carried the matter to the Supreme Court. By an order of 7th January 2015, holding that there was no dismissal on merits, the Supreme Court allowed the Special Leave Petitions and remitted the matters to the High Court for a decision on merits (i.e., the Review Petition and the Writ Petition). A direction was also to examine the legality and validity of the order of dismissal including the aspect of proportionality.

4. Noticing that the matter was still pending even in 2023, we ourselves had it listed out of turn for a priority hearing and disposal.

5. We have heard Ms Chheda, learned Advocate for the Petitioner. The Petitioner is present in Court. Upon taking instructions from him, she seeks leave to withdraw the Petition but with specific liberty to pursue such alternative remedies as are available to the Petitioner in law. That is not an application that can be refused. Accordingly, we dismiss the Petition as withdrawn but specifically with liberty as prayed.

6. We clarify that because of this submission/application of the Petitioner, and at Ms Chheda's request, we are not required to decide the merits of the matter. In fact, her submission is that any

pronouncement or observation we might make on merits may adversely affect the Petitioner while pursuing an alternative remedy. We have acceded to this request because it comes from the Petitioner himself.

7. The Petition is disposed of in these terms with no order as to costs.

(Neela Gokhale, J)

(G. S. Patel, J)