

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.71 OF 2023

Sachi Molding Solutions Pvt. Ltd. & Anr.

...Applicants

Versus

Rasikbhai Gokalbhai Bhalodi

...Respondent

—————
Mr. Zubin Behramkamdin (Sr. Counsel) a/w Mr Dhaval Patil, Mr. Shirley Mody i/b K. Ashar & Co. for the Applicant Nos. 1 & 2.
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Coram : Sharmila U. Deshmukh, J.

Date : July 25, 2023.

P. C. :

1. The matter was taken up on the production board yesterday and notice of the same was given to the Respondent party. As none appears for the Respondent, the matter was listed today. Today also none appears for the Respondent.
2. The challenge in the Application is to the order 27th September, 2022 rejecting the Petitioner's Application under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908 seeking rejection of the Complaint.
3. Learned senior counsel appearing for the Applicants seeks leave to withdraw the Civil Revision Application with liberty to file fresh Application if required. He would submit that the provision of Order 23

Rule 1 (3)(b) provides that upon the sufficient cause being shown such liberty can be granted. He would contend that the Applicants intends to submit to the decree before the Trial Court and in event the Plaintiff does not agree to the course of action then the present proceeding are required to be revived to agitate his right as claimed in the Application under Order 7 Rule 11(d).

4. Considered the Submissions.

5. The Civil Revision Application is being sought to be withdrawn with liberty to file afresh if required. The Petitioner intends to submit to the decree of the Trial Court, which in my opinion, should not be any impediment inasmuch as the Plaintiff also seeks the same relief. In such an event if the Plaintiff does not agree to the course of action the same would imply *malafide* on the part of the Plaintiff. That being so, the liberty is required to be grant to the Applicants to revive the cause by filing fresh Civil Revision Application.

6. In view of the above, the Civil Revision Application is permitted to be withdrawn with liberty to file fresh if required. The Civil Revision Application stands dismissed as withdrawn.

[Sharmila U. Deshmukh, J.]