



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

WRIT PETITION NO. 10184 OF 2023

Arvind Pandurang Nagvekar

..Petitioner/s

v/s.

Mr. Sudhakar Pundlik Shetye & Ors.

..Respondents

Mr. Pradeep Thorat a/w. Ms. Aditi Naikare for the Petitioner/s.
Mr. Sujeet Kurup for the Respondent No.1.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 8th SEPTEMBER, 2023.**

P.C.

1. By this petition under Article 227 of the Constitution, the petitioner challenges the order dated 10th July, 2023. By the said order, the Appellate Bench of the Small Causes Court at Mumbai dismissed the Revision Application and confirmed the order dated 4th August 2022, whereby the trial Court had dismissed the application for amendment of plaint, filed by the petitioner.

2. The records reveal that the Appellate Court had allowed some of the applications filed by the respondent herein under Order 41 Rule 27 of CPC, and had permitted the respondent to adduce additional evidence in respect of reasonable and bonafide requirement of the respondent on account of the subsequent events and had also given liberty to file additional pleadings under Order 8 Rule 9 of CPC.

3. Pursuant to the said order, the respondent filed additional pleadings. It is in view these additional pleadings that the petitioner filed application for amendment of the plaint. It is to be noted that the appeal is still pending and in the absence of any such direction from the Appellate Court, the trial Court was not competent to consider the application for amendment of the plaint. Faced with this situation, learned Counsel for the petitioner seeks leave to withdraw this petition with liberty to file appropriate application before the Appellate Court.
4. Application, if filed, shall be decided on its own merits.
5. Petition stands dismissed as withdrawn.

(ANUJA PRABHUDESSAI, J.)