

AGK

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

WRIT PETITION NO.13784 OF 2023

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Naresh K. Rajwani

... Petitioner

V/s.

Western India Tenneries Ltd. & Anr.

... Respondents

Mr. Farhan Dubash with Ms. Pragya and Mr. Ameya
Khot i/by Legal Vision for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 6, 2023

PC.:

1. On perusal of the order dated 17 October 2022, it appears that the Trial Court has dismissed the suit for non-prosecution under Order 9 Rule 8 of the Code of Civil Procedure, 1908. Whether the Court was justified in dismissing the suit for non-prosecution is an issue which the Court where appropriate proceedings are instituted needs to adjudicate.

2. However, in view of alternative statutory remedy being available to the petitioner, learned advocate for the petitioner, on instructions, seeks permission to withdraw the writ petition with liberty to file appeal from order.

3. The writ petition is dismissed as withdrawn with liberty as prayed for.

4. The time spent in prosecuting the present writ petition shall be considered by the Appellate Court while considering application for condonation of delay sympathetically.

(AMIT BORKAR, J.)