



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 556 OF 2024

Chairman Vidhyanagar Cooperative
Housing Society Nanded And Another

VERSUS

Rajendrasingh Jogendrasingh
Numberdar And Others

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Mr. G. A. Gadhe, Advocate for the Petitioners

Mr. S. C. Bhosle, Advocate for Respondent No. 1

Mr. S. V. Natu, Advocate for Respondent No. 4

Mrs. P. R. Bharaswadkar, AGP for Respondent Nos. 5 & 6

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CORAM : R.M. JOSHI, J

DATE : JUNE 10, 2024

PER COURT :

1. Learned Counsel for the Petitioner submits that the learned trial Court has failed to record any finding in respect of formal defect in order to permit withdrawal of the suit after same has reached the stage of evidence. It is his submission that even in the application no defect has been disclosed.

2. Learned Counsel for the Respondent No. 1, on instructions, consents for setting aside impugned order dated 28.08.2023 passed below Exh. 130 in RCS No. 432/2011 with liberty to the plaintiff to file appropriate application for withdrawal of the suit. He

further makes statement of withdrawal of the application Exh. 130.

3. In view of the aforestated statement made by the learned Counsel for Respondent No. 1 on instructions, impugned order dated 28.08.2023 passed below Exh. 130 in RCS No. 432/2011 is set aside. Leave is granted to the Respondent No. 1/Plaintiff to prefer appropriate application for withdrawal of the suit. Learned trial Court to decide said application after giving opportunity to defendant to file say. Application Exh. 130 is disposed of as withdrawn.

4. In view of the above, Writ Petition is disposed off.

(R. M. JOSHI, J.)

Malani