



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4009 OF 2023

Pradeep Shankar Shetty

... Petitioner.

Versus

Prakash Mohanlal Adwani and Ors.

... Respondents.

Mr. Ashutosh Kulkarni i/by Mr.Akshay Kulkarni, for the Petitioner.
Mr. Chetan Patil i/by Ms.Rati S.Sinhasane, for Respondent No.1.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 25, 2024

P. C.:

1. Petition was argued on the earlier occasion on the aspect of maintainability of the application at the instance of plaintiff under Order VIII Rule 9 of the Code of Civil Procedure, 1908. When the matter was fixed for pronouncement of judgment, learned counsel appearing for the Respondent No.1 on instructions submits that the Application seeking permission to file replication will be withdrawn and as such it is not necessary for the issue to be decided by this Court. He further submits that liberty may be given to file an application for amendment of plaint as well as for filing of additional affidavit of evidence.

2. Mr.Kulkarni, learned counsel appearing for the Petitioner submits that in view of the withdrawal of the application by the Respondent No.1, the petition no longer survives and seeks permission to withdraw. Petition is disposed of as withdrawn. **In view of the above, impugned order dated 11th January, 2023 is hereby quashed and set aside.**

3. Liberty to the respondent No.1 to apply before the trial Court for amendment of the plaint as well as to file an application for filing the additional affidavit of evidence, which the trial Court will consider on its own merits and in accordance with law.

4. All contentions of both parties are expressly kept open.

(Sharmila U. Deshmukh, J.)

(Order is corrected pursuant to the Speaking to the Minutes order dated 6th February, 2024)