

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****COMMERCIAL APPEAL FROM ORDER NO.15 OF 2023****IN****NOTICE OF MOTION NO.4584 OF 2022****IN****COMMERCIAL SUMMARY SUIT NO.19 OF 2022****WITH****INTERIM APPLICATION NO.12890 OF 2023****IN****NOTICE OF MOTION NO.4584 OF 2022****IN****COMMERCIAL SUMMARY SUIT NO.19 OF 2022**

ANJALI  
TUSHAR  
ASWALE

Digitally signed by  
ANJALI TUSHAR  
ASWALE  
Date: 2024.01.29  
10:41:48 +0530

Shreeji Shrink System

..Appellant

***Versus***

Paarksons Cartamudi Pvt Ltd

..Respondent

---

***Mr.Abhijeet Desai***, with *Ms.Bhavika Shinde, Vikrrant Shinde, Advocates for the Appellant.*

---

***Mr.Anosh Sequeira***, with *Mansi Shah i/b Pravin Mehta Mithi Co, Advocates for the Respondent.*

---

**CORAM : B. P. COLABAWALLA &  
SOMASEKHAR SUNDARESAN, JJ.**  
**DATE : JANUARY 25, 2024**

**P.C.**

The above Commercial Appeal is filed challenging the order dated 2<sup>nd</sup> May, 2023 passed by the learned City Civil Court at Bombay in Notice of Motion No.4584 of 2022 in Commercial Summary Suit No.19 of 2022. By the impugned order, the Notice of Motion filed by the Defendant (the Appellant herein) was

rejected. In the said Notice of Motion, the relief sought was for recalling/setting aside the order dated 4<sup>th</sup> October, 2022 under which it was directed that the above Commercial Suit be proceeded ex parte against the Defendant as well as for ex parte evidence.

2           At the out set, the learned counsel appearing on behalf of the Respondent took a preliminary objection that this being a Commercial Suit, the present Appeal is not maintainable.

3           Faced with this objection, the learned counsel appearing on behalf of the Appellant sought leave to withdraw the above Appeal with liberty to approach the Hon'ble Supreme Court under Article 136 of the Constitution of India.

4           In these circumstances, the above Appeal is dismissed as withdrawn with liberty as prayed. No order as to costs.

5           In view of the dismissal of the above Appeal, nothing survives in the above Interim Application and the same is disposed of accordingly.

6            This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**[SOMASEKHAR SUNDARESAN, J.]      [ B. P. COLABAWALLA, J.]**