

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

Writ Petition No. 12877 of 2024

Suresh Jethmal Kothari

... Petitioner

V/s.

Dayal Hassaram Mansukhani

... Respondent

Mr. Shikhar Khandelwal	Advocate for the petitioner-plaintiff.
Mr. Suresh Kothari	Petitioner present in person.
Mr. Moorthy Acharya	Advocate for Respondents.
Ms.Pooja Mansukhani	Wife of respondent present in person through V.C.

CORAM : S.M. MODAK, J

DATE : 09 December 2024.

P.C. :

Mentioned out of turn.

2. Heard learned Advocate for the petitioner-plaintiff and learned Advocate for the respondent-defendant.

3. The trial Court as per the order dated 26 August 2024 has allowed various Notice of Motion subject to payment of various costs. The effect of this order is the exparte decree passed in the suit was set aside. As the amount of cost is not paid, the formal order of restoration is not passed.

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4. The petitioner-plaintiff has challenged the said order by way of this writ-petition. During the pendency, the parties have entered into the compromise and executed Consent Terms. Today, it is taken on record and marked as Annexure-X. It is signed by the petitioner-plaintiff and his learned Advocate. Though the defendant has not signed, it is signed by his wife. She is present virtually. She is also identified by her Advocate. She is recognised as the next friend of the respondent-husband in the submission.

5. As per the Consent Terms the defendant has agreed to pay Rs.5 lacs. It is mentioned in Para No.11 of the consent terms. The demand draft is brought. It is handed over to the petitioner.

6. Both the parties admit about the Consent Terms. Now the petitioner-plaintiff has agreed to withdraw two prosecutions under Section 138 of the Negotiable Instruments Act, 1881 before the Lok Adalat or at the earliest (Para No.10 of the Consent Terms).

7. In view of the settlement, even the petitioner has agreed to waive the cost imposed by the trial Court as per the impugned order. In fact those consent terms ought to have been filed before the City Civil Court and this petition could have been simply withdrawn. However, as the parties want to adhere to the Consent Terms by tendering the demand draft, I have taken them on record.

8. The Writ Petition is disposed of.

9. In the light of this Consent Terms, it is made clear if either of the party will not adhere to the Consent Terms, the other modes are available to the parties as permissible by law.

(S.M. MODAK, J.)