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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1434 OF 2024**

Jayant Dinkarrao Gadakh ... Petitioner
vs.
Dinkar Namdevrak Gadakh and Ors ... Respondents
Mr. Satyajeet P. Dighe for Petitioner
Mr. Harshad M. Inamdar for Respondent No.1.

**CORAM : GAURI GODSE, J.
DATED : 4th AUGUST 2025**

ORDER:

1. This petition is filed by defendant no.2 to challenge the order dismissing his application to amend the written statement and file the counter claim. Learned counsel for the petitioner submits that the petitioner's claim is for recovery of amount against the plaintiff and the other defendants. He on instructions submits that the petitioner would not press for the proposed amendment in paragraph no. 3 of the application, i.e. the proposed paragraph 19(a), 19(b), 19(c) and 20. He further seeks leave to withdraw this petition with liberty to adopt appropriate proceedings regarding his claim prayed in the proposed paragraph nos. 19(a), 19(b), 19(c) and

20 in the application at Exhibit-57.

2. Learned counsel for the plaintiff opposes the grant of any such liberty. He submits that if such a liberty is granted, all the contentions including the maintainability of the claim be kept open.

3. Since, the petitioner would be entitled to file a separate suit for the proposed prayers, I see no reason to refuse to grant such liberty. However, all the rival contentions including maintainability of such claim needs to be kept open.

4. Leave granted with liberty as prayed.

5. It is clarified that all the contentions pertaining to the aforesaid proposed prayers including maintainability of such claim is kept open.

6. Writ Petition is disposed of as withdrawn subject to the aforesaid liberty.

(GAURI GODSE, J.)