

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5522 OF 2025

Ajaykant Ramprasad Ruia & Anr.	...Petitioners
<i>Versus</i>	
New India Assurance Co. Ltd.	...Respondent

Mr. Atul Damle, Senior Advocate a/w. Ms. Shivali Khadke and Ms. Gauravi, for the Petitioners.
Mr. K. N. Kandekar, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED : 24th APRIL 2025

P. C.:

1. Heard Mr. Atul Damle, learned Senior Counsel appearing for the Petitioners and Mr. Kandekar, learned Counsel appearing for the Respondent.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the order dated 1st March 2025 passed by the learned Judge, Small Causes Court, Mumbai below Exhibit-117 in R. A. N. Application No.79/SR of 1989. By the said order, application bearing Exhibit-117 seeking that paragraph Nos. 25, 26 and 27 of the Affidavit of

Examination-in-Chief dated 18th October 2024 of the Respondent - New India Assurance Co. Ltd. be discarded is rejected.

3. After arguing the matter for some time, Mr. Atul Damle, learned Senior Counsel appearing for the Petitioners, on the instructions of the Petitioners, seeks liberty to challenge the impugned order in pending Revision Application, if occasion arises and therefore, seeks withdrawal of the Writ Petition.

4. Mr. Atul Damle, learned Senior Counsel also submits that since this Writ Petition was mentioned for circulation yesterday and as the same is kept today, the learned Advocate was under the impression that after the decision of the Writ Petition, cross-examination will be conducted. He submits that due to some misunderstanding, cross-examination was not conducted yesterday. He states that the Petitioner will file an application for recall of order dated 23rd April 2025, by which “No Cross” Order is passed. Mr. Kandekar, learned Counsel appearing for the Respondent, on instructions, states that in the facts and circumstances of this case, he will give no objection for recall of the said order dated 23rd April 2025.

5. If such application for recall of the said order dated 23rd April 2025 is filed, the learned Judge, Small Causes Court, Mumbai is requested to consider the said application sympathetically.

6. Mr. Atul Damle, learned Senior Counsel states that such application will be filed tomorrow and if the same is allowed tomorrow, the witness will be cross examined tomorrow itself and that the cross-examination will be completed within a couple of days.

7. Accordingly, the Writ Petition is allowed to be withdrawn and disposed of as such.

8. It is clarified that this Court has not considered merits and all contentions on merits are expressly kept open.

[MADHAV J. JAMDAR, J.]