

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

WRIT PETITION NO.9377 OF 2024

Rukmani Mahadev Shinde
through COA Sainath M. Shinde
V/S

....Petitioner

Mumbai, Mumbai Suburban and
Thane Zilla, Fulbagwan Sangh & Ors.

....Respondents

Mr. Shridhar V. Tajane *for the Petitioner.*

Mr. R.D. Soni with Ms. Trupti J. Gohil *for Respondent No.1.*

Mr. Harsh Pathak i/b Mr. Durgaprasad Sabnis *for Respondent No.2.*

Ms. Sulbha D. Chipade, AGP *for Respondent No.3/State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 1 APRIL 2026.

P.C.:

1. The Petition challenges order dated 22 November 2023 passed by the learned Judge, Small Causes Court, imposing costs of Rs.2,00,000/- on the Petitioner/Plaintiff as a pre-condition for permitting withdrawal of the Suit.

2. I have heard Mr. Tajane, the learned counsel appearing for Petitioner, Mr. Soni, the learned counsel appearing for Respondent No.1, Mr. Pathak, the learned counsel appearing for Respondent No.2 and Ms. Chipade, AGP for Respondent/State.

3. Plaintiff instituted Licensee Declaration Suit No.103 of 2017 seeking a declaration that she is a licensee in respect of the suit premises. The suit remained pending for over 16 long years. The Plaintiff moved for withdrawal of the Suit on 22 November 2023. It is contended that filing of the Suit was a mistake and claim of license was premised on ill-advice given by an Advocate. Withdrawal of Licensee Declaration Suit is apparently aimed at giving up claim of license. Be that as it may. A party filing Suit is entitled to withdraw the same. The Plaintiff has already filed pleadings in Licensee Declaration Suit No.103 of 2017 and the said pleadings would obviously haunt the Plaintiff in the other proceedings. Plaintiff cannot get away with the pleadings filed in Licensee Declaration Suit No.103 of 2017 by taking a specious plea that the suit was filed under ill-advice. Therefore, the Defendants in Licensee Declaration Suit No.103 of 2017 would not suffer any prejudice while prosecuting their own L.E. Suit, which is filed for ejectment of the Petitioner. In my view therefore, imposition of costs on the Petitioner/Plaintiff as a precondition for withdrawal of the Suit was not warranted in the facts and circumstances of the present case. However, while setting aside the direction for payment of costs, it is expressly clarified that all the pleadings filed in Licensee Declaration Suit No.103 of 2017 would be relevant for the purpose of deciding various other proceedings pending between the parties.

4. Order dated 22 November 2023 is accordingly set aside in part to the limited extent of imposition of costs of Rs.2,00,000/-. Rest of the order shall remain operative.

5. Writ Petition is **partly allowed** in above terms. There shall be no order as to costs in the present Petition.

(SANDEEP V. MARNE, J.)

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