

MHAH170018582014

**RCS No.200395/2014**Shri Ganesh Sah.Sakhar Karkhana
Through.Managing Director Vs.
Bapusaheb Rangnath Nirmal & Ors.**COMMON ORDER BELOW EXH.43 AND 45**

1. Plaintiff has filed both these application under Order XXIII, Rule 1 (3) of the Code of Civil Procedure for giving permission to withdraw the suit with liberty to file fresh suit.
2. Defendants have opposed the application at Exh.43 but not filed say at Exh.45. As per say on Exh.43 defendants have submitted that the suit is old and it is for final argument. Despite of sufficient opportunity plaintiff did not lead evidence. Defendants had to attend the Court since last 10 years. Plaintiff is not owner of the suit property. Hence, application be rejected with costs of Rs.50,000/-.
3. I have heard both sides. Perused record. The present suit is for perpetual injunction. The suit is more than 12 years old. Plaintiff in the application at Exh.43 has no where mentioned as to for which technical defect plaintiff wants to withdraw the suit with liberty to file fresh suit. However, in application at Exh.45 it is submitted that the plaintiff is society and there is no resolution for filing the suit. Therefore, the suit may fail due to technical defect. Hence, it is necessary to withdraw the suit for filing the fresh suit on the same cause of action.

4. Plaintiff is society registered under the Co-operative Societies Act. Therefore, without proper authority suit cannot be proceeded. Hence, there appears formal defect that makes the suit unworkable. Therefore, suit may fail for the said formal defect. Lack of authorization is procedural flaws that will not affect the merit of the case. Hence, permission requires to be given to the plaintiff to withdraw the suit with liberty to file fresh suit on the same cause of action subject to limitation. Therefore, I pass the following order;

ORDER

1. Applications are allowed.
2. Plaintiff is permitted to withdraw the suit with liberty to file fresh suit on the same cause of action subject to law of limitation.

Date:- 27/03/2026

(N. N. Joshi)
2nd Jt. Civil Judge Senior Division,
Rahata, Dist.Ahmednagar

CERTIFICATE FOR UPLOADING TO CIS

I affirm that the contents of this P.D.F File are same word to word, as per the original.

Name of the Court	:	Smt. Neha N. Joshi 2 th Jt. Civil Judge Senior Division & Addl. Chief Judicial Magistrate, Rahata, Dist.Ahmednagar.
Name of the Stenographer	:	Amol S. Nannaware Stenographer (Grade-II)
Dictated on computer	:	27/03/2026
Typed on	:	27/03/2026
Checked & Signed on	:	27/03/2026