

MHRG140000872020



ORDER BELOW EXH-1

1. This order shall dispose of the application filed by the Plaintiff at Exhibit 56, seeking permission of this Court to unconditionally withdraw the present Regular Civil Suit No. 18 of 2020.

2. Briefly stated, the facts leading to the filing of the present application are as follows:

The Plaintiff instituted this suit under the provisions of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA) for seeking execution of a registered agreement and other consequential reliefs. Upon the appearance of the Defendants, issues were framed by this Court at Exhibit 27. Subsequently, the Plaintiff filed his affidavit-in-lieu of examination-in-chief at Exhibit 28, and the suit was pending for further evidence.

3. During the pendency of the trial, the Plaintiff filed the instant application at Exhibit 56 on 08/05/2026, supported by an affidavit of even date, contending that he has settled the matter out of court with Defendant Nos. 4 and 5. The Plaintiff further averred that Defendant No. 1, who was responsible for developing the suit

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property, had failed to secure the necessary Non-Agricultural (N.A.) and construction permissions from the District Collector, having constructed the building solely on a 'No-Objection Certificate' (NOC) issued by the Gram Panchayat. Realizing that the construction is unauthorized and illegal, and having received an alternative compensation/damages of Rs. 7,50,000/- (Rupees Seven Lakh Fifty Thousand Only) from Defendant No. 3 (which was the exact consideration amount paid by the Plaintiff to Defendant No. 1), the Plaintiff submits that no legal cause of action survives to prosecute the suit further. Therefore, the Plaintiff seeks to unconditionally withdraw the suit.

4. Heard the learned Advocate, Shri. A. R. Nagdeve, appearing for the Plaintiff/Applicant. Perused the record, the contents of the application, and the affidavit annexed thereto at Exhibit 56.

5. To appreciate the merits of the application, it is necessary to refer to the provisions of Order XXIII Rule 1 of the Code of Civil Procedure, 1908 (CPC). Sub-rule (1) of Rule 1 of Order XXIII of CPC provides that at any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim. It is a well-settled principle of civil jurisprudence that a plaintiff, being the dominus litis of his suit, has an absolute right to withdraw his suit unconditionally at any stage of the proceedings, provided no vested right has been created in favor of the defendants.

6. In this context, the learned Counsel for the Plaintiff has rightly placed reliance on the landmark judgment of the Hon'ble Supreme Court of India in the case of **Mr. Anurag Mittal Vs Mrs. Shaily Mishra Mittal, AIR 2018 SC 3983**. In the said decision, the Hon'ble Apex Court observed that an unconditional withdrawal of a suit is complete the moment the plaintiff files an application expressing their clear intention to withdraw the suit. The court's role in such matters is formal and ministerial, which is to record the withdrawal and pass consequential orders as to costs. The court cannot compel a plaintiff to prosecute a suit against their will if they wish to withdraw it unconditionally.

7. In the present case, the Plaintiff has categorically stated on oath that he has settled the dispute outside the Court with Defendant Nos. 4 and 5, and has received alternative compensation of Rs. 7,50,000/- from Defendant No. 3, representing the refund of the consideration amount. Furthermore, the Plaintiff has recognized the legal impediments regarding the lack of development permissions (such as the Collector's N.A. permission) for the suit construction and does not wish to pursue the litigation further.

8. There is no counter-claim filed by the Defendants, nor has any vested right been created in favor of any of the Defendants during the pendency of these proceedings which would be prejudiced by the withdrawal. The withdrawal is unconditional, and the Plaintiff is not seeking liberty to file a fresh suit on the same

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cause of action. Consequently, this Court finds no legal impediment in accepting the application at Exhibit 56.

9. Since the Plaintiff has chosen to walk away from the litigation, the suit deserves to be dismissed as unconditionally withdrawn. There shall be no order as to costs. In view of the above, I proceed to pass the following order:

ORDER

1. The Application at Exhibit 56 is hereby allowed.
2. This Regular Civil Suit No. 18 of 2020 stands dismissed as unconditionally withdrawn.
3. Parties to bear their own costs.
4. Court fees, if any, be refunded to the Plaintiff as per the rules.

Uran,
Date : 01.07.2026

(S. P. Wankhade)
Civil Judge, J.D., Uran