

MHRG140000892020



ORDER BELOW EXH-1

1. By this order, I shall dispose of the application filed by the Plaintiff at Exhibit-54 seeking unconditional withdrawal of the suit under Order XXIII Rule 1 of the Code of Civil Procedure, 1908, along with the application at Exhibit-55 filed by the Plaintiff to take the present matter on today's board.

2. The brief procedural history of the present suit is that the Plaintiff instituted this suit under the provisions of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA) seeking necessary statutory compliances and reliefs. After 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/evidence at Exhibit-28. The matter was thereafter pending for further evidence of the Plaintiff.

3. While the suit was pending at the stage of further evidence, the Plaintiff on 08.05.2026 preferred an application at Exhibit-54 for unconditional withdrawal of the suit. This application was accompanied by an affidavit of the Plaintiff solemnly affirming the facts. The matter was scheduled for passing orders on the

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withdrawal application on 10.06.2026. However, due to administrative exigencies, the order could not be passed on that date, and the matter was adjourned to 08.07.2026. Today, i.e., on 01.07.2026, the Plaintiff preferred an application at Exhibit-55 to take the matter on today's board and requested immediate orders on the pending withdrawal application (Exh-54).

4. Heard the learned Counsel for the Plaintiff, Advocate Shri. A. R. Nagdeve. Perused the records, the application for withdrawal (Exh-54), the affidavit in support thereof, and the application for preponement (Exh-55).

5. In the application at Exhibit-54, the Plaintiff has categorically stated that he has arrived at an out-of-court settlement with Defendant Nos. 4 and 5. The Plaintiff further states that Defendant No. 1 constructed the suit building without obtaining the mandatory Non-Agricultural (NA) permission from the Collector or the requisite construction permissions, and did so solely on the basis of a house-construction No-Objection Certificate (NOC) from the Gram Panchayat. Realizing that the construction is unauthorized and illegal, and having received alternative compensation/damages to the tune of Rs. 6,50,000/- (Rupees Six Lakh Fifty Thousand only) from Defendant No. 3 (which was the consideration amount originally paid to Defendant No. 1), the Plaintiff states that no legal cause of action remains to prosecute the suit further. The Plaintiff has therefore expressed his clear intention to unconditionally withdraw the present suit.

6. The learned Counsel for the Plaintiff, in support of his contentions, placed reliance on the decision of the Hon'ble Supreme Court of India in **Mr. Anurag Mittal Vs Mrs. Shaily Mishra Mittal, AIR 2018 SC 3983**, contending that the right of a plaintiff to withdraw a suit is absolute and the withdrawal is complete as soon as the application is filed.

7. The Plaintiff has moved the application at Exhibit-55 to take the matter on today's board on the ground that he has settled the matter out of court and does not wish to keep the litigation pending. Since the Plaintiff is seeking an unconditional withdrawal of the suit, no prejudice will be caused to the Defendants if the matter is taken up on today's board ahead of its scheduled date. Accordingly, the application at Exhibit-55 is allowed.

8. The law governing the withdrawal of suits is contained in Order XXIII Rule 1 of the Code of Civil Procedure, 1908. Sub-rule (1) of Rule 1 mandates 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. This is an absolute, unilateral right of the plaintiff. When a plaintiff seeks unconditional withdrawal of the suit without seeking liberty to file a fresh suit on the same cause of action, the Court cannot compel the plaintiff to prosecute the litigation. This position is robustly supported by the decision of the Hon'ble Supreme Court in **Mr. Anurag Mittal Vs Mrs. Shaily Mishra Mittal, AIR 2018 SC 3983**, wherein it has been held that a plaintiff

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has an absolute right to withdraw a suit unconditionally, and such withdrawal takes effect the moment the application is made.

9. In the present case, the Plaintiff has filed a detailed application stating that he has settled the dispute outside the Court, received alternative compensation of Rs. 6,50,000/- from Defendant No. 3, and is satisfied. He has verified these statements on oath by filing his personal affidavit. Since the Plaintiff does not seek any liberty to file a fresh suit on the same cause of action, the application at Exhibit-54 must be allowed. In view of the above discussion, the suit must be disposed of as withdrawn. Hence, the following order:

ORDER

1. The application at Exhibit-54 for the unconditional withdrawal of the suit is hereby allowed.
2. This Regular Civil Suit No. 20/2020 stands dismissed as withdrawn unconditionally.
4. Parties to bear their own costs.

Uran,
Date : 01.07.2026

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