

ORDER BELOW EXH-73

The plaintiffs have filed this pursis Exh. 73 to withdraw the suit unconditionally.

2. In short, it is application of the plaintiffs that, the purpose of filing suit is served due to execution of registered sale-deed dated 03.11.2015 and registered in office of sub-registrar Haveli no. 7 vide no. ह व ल ६/१११७१/२०१५. Therefore, the plaintiffs do not want to proceed with the suit. Hence, they are withdrawing the suit and prayed to disposed of the suit. The application is signed by the plaintiffs and their learned advocate. The defendants are absent when called repeatedly. Moreover, the withdrawal being unconditional. Say of the defendants are not called.

3. The plaintiffs are present with their learned advocate. The plaintiffs have filed pursis Exh. 73 and intimated intention of plaintiffs to withdraw the suit as purpose of filing suit is served. The pursis is read over and explained to the plaintiffs in presence of their advocate. The withdrawal of suit is unconditional and voluntarily. In fact, defendant nos. 3 and 4 has filed one application vide Exh. 61 objecting compromise decree but it is plain withdrawal. Hence, it will not be proper to reject the pursis of withdrawal. In fact, there is no necessity to obtain the say of other side for unconditional withdrawal unless there is counter claim or suit is filed in representative capacity. But, considering application Exh. 61 the suit is not disposed of on the same day. On the last date defendant nos. 3 and 4 filed application for adjournment which allowed as last chance. But, today the defendants are absent. In the present suit there is no counter claim or suit is not filed in representative capacity. Hence, in view of **Anil Dinmani Shankar Vs. Chief Officer Panvel Municipal Council AIR 2003 Bombay 238** as per intimation of plaintiffs vide Exh. 73, the suit is liable to be disposed off as per the pursis to withdraw the suit. The plaintiffs are withdrawing the suit as per order XXIII Rule 1 of the Code of Civil Procedure without any condition. There is no other reason to reject the withdrawal. In the circumstances, it will legal

Special Civil Suit No. 793/2014

and proper to allow the plaintiffs to withdraw the suit. Hence, the order.

ORDER

1- The suit is allowed to be withdrawn and I proceed to pass order below
Exh. 1.

Date : 09.03.2017
Pune

Sd/-
(P. D. Zambre)
11th Jt. Civil Judge S.D. Pune

ORDER BELOW EXH- 1

See order below Exh. 73. In view of order passed below Exh. 73 the suit is liable to be disposed off. Yet issues are not framed. Hence, the plaintiff is entitled for refund of court fee as per rules. Hence, the order.

ORDER

- 1- The suit is disposed off as withdrawn.
- 2- Court fee refund be given to the plaintiffs as per rules.

Sd/-

Date : 09.03.2017
Pune

(P. D. Zambre)
11th Jt. Civil Judge S.D. Pune

CERTIFICATE

“I affirm that the contents of this PDF file Judgment are same word for word as per original Judgment.”

Name of Steno	: V.A.Chaudhari
Court Name	: Shri. P.D.Zambre, 11 th Jt. C. J. S.D, Pune.
Date	: 09.03.2017
Order signed by	
presiding officer on	: 09.03.2017
Order uploaded on	: 10.03.2017