



CNR No. : MHWR020017092016
R. C. S. No. 308/2016
Shiksha Mandal + 1 Vs. Vinod + 4

COMMON ORDER BELOW EXHs. 01 & 55

This is suit for simplicitor injunction.

2. Plaintiffs through application at Exh. 55 are seeking relief of grant of permission to withdraw the suit with liberty to file fresh suit. Despite of grant of time & opportunities, defendants failed to file any say the said application and no reasons furnished for said failure. Hence, considering the nature, age & stage of matter, proceeded without the say of defendants.

3. It is the case of plaintiffs that the defendants were trying to encroach upon & take illegal possession of the suit property belonging to their registered society. Hence, they were constrained to institute the present suit. However, now they had raise iron barbed wires to suit property and thus, there is no threat to the boundaries of the suit property. Therefore, they do not want to proceed with the present suit and wants to withdraw the same, with liberty to institute fresh suit, if the contingency arises.

4. As mentioned above, despite of grant of time & opportunities none appeared for defendants. Today also, despite of repetitive calls, defendants and their Ld. Advocate failed to appear & conduct the matter. No reasonable cause is furnished for failure to advance any arguments. Hence, proceeded without hearing them.

5. Perused the application, say filed & the record. Heard the Ld. Advocate for plaintiffs.

6. It is apparent that, plaintiffs had sought simplicitor injunction against defendants in respect of the suit property. Further, as per plaintiffs, now there is no threat to the suit property and thus, they want to withdraw the present suit. Plaintiffs being dominus litus, are at liberty to withdraw the suit and therefore, for want of any objection by defendants, I am inclined to grant the permission.

7. However, as to the liberty sought, it is pertinent to note that, as per plaintiffs there is no threat to the suit property as of now and thus, the cause of action does not survive. *Needless to mention*, in case of any such threat in future, plaintiffs will be at liberty to institute any such suit for the said subsequently accrued cause of action. Therefore, I am not inclined to grant the liberty as sought.

8. Therefore, in view of the reasons mentioned above, I am inclined to partly allow the application and grant permission to plaintiffs to withdraw the suit, without granting any liberty to institute any fresh suit for the cause of action in the present suit. Similarly, as defendants failed to raise any objection to application at Exh. 55, I am not inclined to impose any costs. Accordingly, I proceed to pass the following order :

ORDER

1. Application at Exh. 55 is hereby partly allowed and permission is granted to plaintiffs to withdraw the suit.
2. Both parties to bear their own costs.
3. Case be disposed off as withdrawn accordingly.

Place : Wardha.

Date : 31/01/2026

(Vickrant P. Khandare)

Joint Civil Judge Junior Division, Wardha.

(Court No. 1)