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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4862 OF 2011

Shashank Bhupatrai Kapadia.

..Petitioner

-Versus-

Renuka Nikhil Kapadia.

..Respondent

.....
Mr.PS.Dani, for the Petitioner.

Mr.Denzil D'Mello, for the Respondent.
.....

CORAM: S.C. DHARMADHIKARI, J.

DATE :- 31st January, 2013.

PC.:

1 This Writ Petition is directed against an interlocutory order and particularly on an application seeking to lead the secondary evidence.

2 The Petitioner is the original Plaintiff. Mr.Dani, learned counsel appearing for the Petitioner, upon being confronted with the contents of the said application and equally the impugned order, fairly states that the application did not contain the essential averments as to why the secondary evidence as envisaged by Sections 63 and 65 of the Indian Evidence Act, 1872 is required to be led. Mr.Dani, therefore, states that the Petitioner seeks leave to withdraw that application with liberty to file a fresh application.

3 In the light of these statements, the application Exhibit-26 is allowed to be withdrawn with liberty to file a fresh application. If such an application is filed pursuant to this liberty, same be decided in accordance

with law and after having heard both sides, but not being influenced by rejection of earlier application. The Writ Petition is disposed of in these terms. No costs.

(S.C. DHARMADHIKARI, J.)