

**S.B. CIVIL FIRST APPEAL NO.181/2004**

Surendra Kumar  
Vs.  
Ram Ratan & Anr.

Date of Order :: 29.8.2014

**HON'BLE MR. JUSTICE ARUN BHANSALI**

Mr. Surendra Kumar – appellant – present in person.

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An application has been filed under Order XXIII, Rule 1(3) CPC for withdrawal of the appeal.

It is inter-alia indicated in the application that the decree-holder Shri Ram Ratan expired on 1.10.2012 and the application under Order XXII, Rule 4 CPC was filed by the appellant on 2.1.2013. During the service of notices on the legal representatives, a compromise has been arrived at between the parties on the condition that the appellant withdraws the present appeal. It is prayed in the application that the appellant may be permitted to withdraw the appeal and if the legal representatives of Shri Ram Ratan refuse to handover the property and deny the registration, the appellant would have right to move an application before this Court for restoration of the present appeal.

It was brought to the notice of the appellant in person that such a prayer i.e. conditional withdrawal of the appeal was legally not permissible. The appellant, therefore, prayed for a simple withdrawal of the appeal without any conditions attached.

In view of the submissions made, the application filed by the appellant to the extent of withdrawal of the appeal unconditionally is allowed. The appeal is dismissed as withdrawn.

**(ARUN BHANSALI), J.**

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