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

WRIT PETITION NO.695 OF 2015

M/s.Dabang Khabarein through its Editor

Mr.Shashi Krishnakumar Sharma

...Petitioner

v/s.

The Sub-Divisional Magistrate,

Thane Division and Anr.

...Respondents.

Mr.Madan Singh Khati, for the Petitioner.

Mr.D.B.Khaire, Additional Government Pleader for the Respondent Nos.1
and 2.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 1st JULY, 2015.

P.C.

1. Learned Counsel for the petitioner, on instructions, states that for challenging the order impugned in this petition under Article 226 of the Constitution of India, the petitioner has preferred an appeal before the Appellate Authority. He states that the Appellate Authority has entertained the appeal and stayed the operation of the impugned order.

2. Relying upon a decision of the Apex Court in the case of *Whirlpool Corporation v/s. Registrar of Trade Marks, Mumbai and Others.*,¹ he submits that notwithstanding the availability of the remedy of appeal, this Court can entertain a writ petition filed under Article 226 of the Constitution of the India.

3. The law on this aspect is well settled. In the facts of the case, the petitioner has already availed the remedy of appeal. Exercise of the writ jurisdiction under Article 226 of the Constitution of India is always discretionary.

4. In the facts of the case, we decline to entertain this writ petition. The petition is disposed of. All contentions on merits are kept open.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)

¹ AIR 1999 SC 22