

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3828 OF 2015

Sau. Shaila Arun Zute	..	Petitioner
VS.		
Shri Pandurang Maruti Kafre & Ors.	..	Respondents

Mr. Samir A. Vaidya for Petitioner.

CORAM : M. S. SONAK, J.
DATE: 16 APRIL 2015

P.C. :-

1] This petition challenges order dated 20 February 2015, which according to the learned counsel for the petitioner has been made upon the petitioner's application under Order 21 Rule 99 of the CPC obstructing the execution of decree.

2] If this be so, then in terms of Order 21 Rule 103 of the CPC, an order made under Rule 98 or Rule 100 of Order 21 in pursuance of an application under Order 21 Rule 97 or Order 21 Rule 99 shall have the same force and be subject to the same conditions as to appeal or otherwise, as if it were a decree.

3] In view of the aforesaid, there is no reason to entertain the present petition. However, the petitioner shall be at liberty to

institute an appeal against the impugned order which according to him has been made by the application under Order 21 Rule 99 of the CPC. The learned counsel states that such appeal would be preferred within a period of two weeks from today. In case the appeal is preferred within a period of two weeks from today then the period spent in prosecuting this petition may be considered as period spent bonafide for the purposes of limitation.

4] With the aforesaid observations, this petition is disposed of.

5] It is clarified that this Court has not gone into the merits of the matter and therefore, it would be for the appeal court to go into the same as and when, the petitioner prefers the appeal.

(M. S. SONAK, J.)

Chandka