

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

**WRIT PETITION NO.8644 OF 2013
WITH
CIVIL APPLICATION NO.2045 OF 2014
WITH
CIVIL APPLICATION NO.2046 OF 2014**

**Mrs. Vaishali Ajay Mirajkar : Petitioner
versus
Mangesh Suresh Mirajkar and ors. : Respondents.**

None for the Petitioner.

**Mr. Govind Solanke i/by Mr. Pratap Patil for the Respondent Nos.1,2, 4
and 5.**

**CORAM : R. M. SAVANT, J.
DATE : 28th January 2015**

P.C.

1 The above proceedings were listed on 21/01/2015 when none had appeared for the Applicant/Petitioner and hence were kept today as and by way of last chance. Today also no appearance is put up on behalf of the Applicant/Petitioner.

2 The above Petition has been filed challenging the order order dated 27/6/2013 passed by the learned District Judge-I, Karad by which order the Regular Civil Appeal No.5 of 2013 came to be dismissed. The said Appeal was filed challenging the order dated 15/12/2012 passed by the Executing Court i.e. the the learned 3rd Joint Civil Judge Junior Division Karad by which the Application (Exhibit 50) purportedly filed under Order XXI Rule 97 of the

Code of Civil Procedure objecting to the execution came to be rejected. Having regard to the challenge in the above Writ Petition, the same is not maintainable as against the order passed by the Lower Appellate Court, the Applicant/Petitioner would have to file a Second Appeal. Hence apart from the fact that no appearance is put up on behalf of the Applicant/Petitioner on the last date, having regard to the fact that the order impugned is amenable to challenge by way of Second Appeal, the above Petition is dismissed with liberty to the Applicant/Petitioner to file the Second Appeal, if so advised. In view of the dismissal of the above Writ Petition, Civil Application Nos.2045 of 2014 and 2046 of 2014 for bringing the heirs of the Respondents on record do not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]