IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 1228 OF 2014

Smt. Madhavi Madhukar Karmarkar and Anr. Petitioners

Vs

M/s Kedar Associates and Ors .. Respondents

Mr. Nitin P. Deshpande, Advocate for the petitioners.
Mr. P.S.Dani, Senior Advocate, i/b Mr. Rohit Gangavane, Advocate for respondent no.1.
Mr. Dhananjay B. Lonkar, Advocate for respondents no. 2 and 3.

CORAM : R.G.KETKAR,J.
DATE : 07/07/2015

PC:

1. Heard Mr.Nitin Deshpnade, learned counsel for the petitioners, Mr. P.S.Dani, learned senior counsel for respondent no.1 and Mr.Dhananjay Lonkar, learned counsel for respondents no.2 and 3 at length.

2. Perused the earlier order dated 2.7.2015. In that order, it is recorded that by present application under Section 115 of C.P.C., the petitioners have challenged the Judgment and order dated 30.6.2014 passed by learned Jt. Civil Judge, Sr. Dn., Pune below Exhibits 1 and 20 in Special Civil Suit No.817 of 2012. By that order, the learned trial Judge allowed the application under section 9-A of C.P.C. and dismissed the suit. It is further recored therein that the learned counsel for the respondents relied upon the decision of this Court in the case of Walchandnagar Industries

Ltd Vs. Indraprastha Developers, 2014 (2) ALL M.R. 550 and in particular paragraph 15 thereof and, therefore, application under section 115 is not maintainable as the impugned order is a 'decree' within the meaning of sub-section (2) of Section 2. Hence, the petitioners have to institute substantive First Appeal under section 96 read with Order 41 Rule 1 of C.P.C.

3. After going through the decision of this Court in the case of Walchandnagar Industries Ltd (supra), I find substance in the submissions advanced on behalf of the respondents. Hence, the Petition is dismissed as not maintainable, reserving liberty to the petitioners to institute substantive First Appeal under section 96 read with Order 41, Rule 1 of C.P.C. Registry shall return certified copies to the petitioners. Order accordingly.

(R.G.KETKAR, J.)