

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 295 OF 2016
IN
CIVIL APPLICATION NO. 3828 OF 2014
IN
FIRST APPEAL NO. 1303 OF 2014

Ms. Florinda C. DeMonte	...	Applicant
vs.		
Yasmeen Fakir Mohammad	...	Original Appellant/ Respondent

Mr. Anthony Marques, Aileen Marques, Advocate for the Applicant.
Mr. C.M. Hegde, Advocate for the original appellant/respondent.

CORAM: MRS.MRIDULA BHATKAR, J.
(In Chamber)
DATE: APRIL 26, 2016

P.C.:

This Application is moved for setting aside and/or modification of the order dated 2nd December, 2015 passed in Civil Application No. 3828 of 2014 or to stay the said order.

2. The learned counsel for the applicant submitted that the order dated 2nd December, 2015 is to be set aside because the observation made by this Court in paragraph 5 that gift deed was not produced and the appellant challenged the said gift deed, is a false statement. He made this application in view of Order 39 Sub Rule (4) and second proviso.

3. The order is passed by this Court on 2nd December, 2015 and was

uploaded on 4th December, 2015. The order was passed in the open Court in the presence of counsel of both the parties, however, the Application is filed on 19th December, 2015. This Application was not placed before this Court till today. The prayer is made for setting aside the order and modifying the order. This means the prayer of review is worded in different manner, so the scope of Application is to be considered in the light of Order 47 and Section 114 of CPC. It is to be noted that statement made by the counsel of the applicant is recorded. However, while passing the order, only that statement was not taken into account but overall statements were considered. I do not find any error apparent on the face of record and it cannot be covered within the ambit of Order 47 and Section 114 of CPC.

4. Application is rejected.

(MRIDULA BHATKAR, J.)