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

CIVIL REVISION APPLICATION NO. 392 OF 2017

Nita Nirmalkumar Gangji	.. Applicant
Vs.	
Gafarkha Hamidkha Pathan & Ors.	.. Respondents

Mr. Samir Kumbhakoni for the Applicant.
Mr. A. B. Tajane for the Respondent.

CORAM : A. S. GADKARI, J.
DATE : 18th AUGUST, 2017.

P. C. :

1. By the present application, the applicant has challenged the legality of order dated 23.06.2017 passed by the learned Ad hoc District Judge-3, Solapur in Regular Civil Appeal No.94/2017 confirming the order dated 23.03.2017 passed by the 4th Joint Civil Judge, Junior Division, Solapur in Regular Darkhast No.6/2015 in application below Exhibit 17 filed under Order 21 Rule 97 of the Civil Procedure Code.

2. Heard the learned counsel for the petitioner at length.
Perused the record.

The record indicates that respondent Nos.1 and 2, landlords filed a suit for eviction against respondent No.3, tenant bearing Regular Civil Suit No. 643 of 2008. The said suit was decreed in favour of respondent Nos.1 and 2 by Judgment and order dated 14.10.2011 by the 10th Joint Civil Judge, Junior Division, Solapur. The appeal preferred by respondent No.3

against the decree of eviction bearing Civil Appeal No. 142/2012 has been turned down by the Appellate Court. The record further clearly indicates that after the decree of eviction is passed against respondent No.3 i.e. the husband of the petitioner, the petitioner and respondent No.3 along with their son Mr. Karn Nirmalkumar Gangji executed a Deed of Partnership dated 25.07.2012. That, during the course of execution of aforesaid decree, the petitioner filed the said application below Exhibit 17 as an obstructionist under Order 21 Rule 97 of the CPC claiming that in pursuance of the said Partnership Deed dated 25.07.2012, she is conducting business at the said place, namely, Gangji Garments. The Executing Court i.e. 4th Joint Civil Judge, Junior Division, Solapur by its order dated 23.03.2017 has rejected the said application. As stated earlier, the appeal preferred by the petitioner against the said order bearing RCA No. 94/2017 has been turned down by the Appellate Court by the impugned order.

3. At the outset, it is to be noted here that the Trial Court has passed a decree of eviction against the respondent No.3 directing him to hand over possession of suit property to the respondent Nos.1 and 2 within stipulated period by its Judgment and order dated 14.10.2011. The purported Partnership Deed came to be executed on 25.07.2012 by the petitioner, respondent No.3 and their son, namely, Mr. Karn Nirmalkumar Gangji after passing of the decree dated 14.10.2011 by the Trial Court. A judicial note of the said document has to be taken by this Court, that the

said document i.e. partnership deed is an unregistered document and in view thereof, the petitioner cannot exercise her right to sue. It further appears to me that the said document is created only with a view to defeat the bonafide and legitimate claim of the landlords and the decree which is passed by the Trial Court after a full-fledged trial.

4. After taking into consideration the facts of the present case and in view of the above this Court is of the opinion that the Courts below have not committed any error either in law or on facts while passing the impugned orders dated 23.06.2017 and 23.03.2017.

The petition being devoid of merits is accordingly rejected.

[A. S. GADKARI, J.]