

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13944 OF 2016**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr.Yuvraj P. Narvankar i/b. R.N. Kachave,
Advocate for the Petitioner.

CORAM : R. G. KETKAR, J.

DATE : 23/03/2017

P.C.:

1. Heard Mr. Yuvraj Narvankar, learned Counsel for the petitioner. He undertakes to file vakalatnama on behalf of the petitioner on or before 24.3.2017.
2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 20.4.2016 passed by the learned Principal District Judge, Kolhapur in Civil Misc. Application No.296/2008. By that order, the learned Principal District Judge dismissed the application made by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'Act') for setting aside the Arbitral Award dated 4.8.2008.
3. Mr. Narvankar submitted that under Section 37 of the Act, an appeal lies against the order passed in an application for setting aside the Arbitral Award

under Section 34 of the Act. He submitted that the time spent by the petitioner in prosecution present petition from 24.8.2016 till today may be excluded. He submitted that Section 43 of the Act lays down that Limitation Act, 1953 shall apply to the arbitrations as it applies to proceedings in the Court.

4. He submitted that as the petitioner has equally efficacious alternate statutory remedy of filing appeal under Section 37 of the Act, the petitioner may be permitted to withdraw the petition with liberty to file appeal under Section 37 of the Act.

5. In view thereof, on the motion made by Mr.Narvankar, Petition is allowed to be withdrawn with liberty as prayed for. It is made clear that I have not examined the merits of the case. The petitioner is at liberty to file application for condonation of delay and praying for exclusion of time spent in prosecuting this Petition from 24.8.2016 till date. All contentions of the respondents in that regard are kept open. Order accordingly.

(R. G. KETKAR, J.)