

Anand

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

**WRIT PETITION NO.9958 OF 2015**

Jilani Akbar Kokani .Petitioner

Vs.

Viraj Estate Pvt. Ltd. & ors. .Respondents

Mr.Dilip Bodake, Advocate, for the Petitioner

**CORAM : R.G.KETKAR, J.**

**DATE : 09.03.2017**

**P.C.**

. Heard Mr. Bodake, learned counsel for the Petitioner.

2. By this Petition under Article 227 of the constitution of India, the Petitioner has challenged the Judgment and Order dated 30.07.2010 passed by the learned Civil Judge (S. D.), Nasik below Exh.74 in Special Civil Suit No.310 of 2009.

3. Mr. Bodake submitted that during the pendency of the suit, parties in Spl. Civil Suit No.310 of 2009 filed the Consent Terms Exh.366 and the suit was disposed of in terms of the Consent Terms on 26.03.2013. He has placed this fact on record by filing an Affidavit of the Petitioner on 14.09.2016.

4. Mr. Bodake submits that in view of the subsequent development, the Petition is rendered infructuous. He states that the Petitioner will adopt appropriate proceedings challenging the compromise decree. He assures that within six weeks from today, the Petitioner will file appropriate proceedings challenging the compromise decree and the time spent in prosecuting this Petition from 03.09.2012 till today may be excluded while considering the Application for condonation of delay. He further assures that the Petitioner will not seek further extension of time. He further submits that the proposed proceedings may be ordered to be decided uninfluenced by the observations made in this Order.

5. In view thereof and on the motion made by Mr. Bodake, Petition is disposed of as infructuous. The Petitioner is at liberty to file appropriate proceedings challenging the compromise decree. If such proceedings are filed within six weeks from today, time spent by the Petitioner in prosecuting this Petition from 03.09.2012 till today shall be excluded while computing period of limitation. The Court seized of the proceedings shall decide the proceedings uninfluenced by the observations made in this order. Order accordingly.

**(R.G.KETKAR, J.)**