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

WRIT PETITION NO. 134 OF 2017

Anita Anant Sawant	.. Petitioner
Vs.	
Sudhakar Sadashiv Sawant	.. Respondent

Mr. Sandip S. Dhuri for the Petitioner.

CORAM : R. G. KETKAR, J.
DATE : 18th JANUARY, 2017.

P. C. :

1. Heard Mr. Sandip Dhuri, learned counsel for the petitioner, at length.
2. By this petition, under Article 227 of the Constitution of India, the petitioner, hereinafter referred as 'decree holder', has challenged the Judgment and order dated 06.09.2016 passed by the learned Civil Judge Junior Division, Shriwardhan below Exhibit 248 in Regular Darkhast No. 8 of 2006. By that order, the learned Trial Judge rejected the application filed by the decree holder under Order XXI Rules 98, 101 r/w 151 of the C.P.C. directing the Judgment debtor to hand over possession of backside Padavi and adjacent room of house No.97 situate at Ambet, Taluka Mhasla. Order XXI Rule 103 of C.P.C. provides that where any application has been adjudicated upon under Rule 98 or Rule 100, the order made thereon shall have the same force and be subject to the same conditions

as to an appeal or otherwise as if it were a decree.

3. In view thereof, as the petitioner has an equally efficacious alternate statutory remedy of filing an appeal under Order XXI Rule 103, this petition is not maintainable. Hence, the petition fails and the same is dismissed reserving the liberty to file the appeal as contemplated by Order XXI Rule 103 of the C.P.C. The time spent by the decree holder in prosecuting this petition from 27.10.2016 till today shall be excluded, if there be any delay in filing the appeal. It is made clear that I have not examined merits of the case. Order accordingly.

[R. G. KETKAR, J.]