

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO.38 OF 2017
IN
REVIEW PETITION NO.26 OF 2017
IN
WRIT PETITION NO.10053 OF 2014**

Mrs. Ashwini Sandeep Yalgi Applicant

Vs.

The State of Maharashtra & Anr. Respondents

Mr. A.M. Saraogi, Advocate for the Applicant.
Ms. Sarita Mishra, Advocate for respondent no.2.

Coram : Smt. R.P. SondurBaldota, J.

Date : 8th February, 2017

P.C.

1 This application is for condonation of delay in filing the Revision Application. Heard the advocates. Perused the application. For the reasons stated in the application, the delay is condoned.

(Smt. R.P. SondurBaldota, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****REVIEW PETITION NO.26 OF 2017
IN
WRIT PETITION NO.10053 OF 2014
WITH
CIVIL APPLICATION NO.37 OF 2017**

Mrs. Ashwini Sandeep Yalgi Petitioner

Vs.

The State of Maharashtra & Anr. Respondents

Mr. A.M. Saraogi, Advocate for the Petitioner.
Ms. Sarita Mishra, Advocate for respondent no.2.

Coram : Smt. R.P. SondurBaldota, J.

Date : 8th February, 2017

P.C.

1 This petition seeks review of the order dtd.4th August, 2016, by which the Writ Petition filed by the petitioner being Writ Petition No.10053 of 2014 was dismissed. The order impugned in the Writ Petition has partly allowed, the petitioner's application for interim reliefs in the petition filed by the respondent-husband. The order restrains the husband from evicting her from the suit premises. The relief which was denied to the petitioner were the reliefs of interim injunction to restrain the husband from creating any third party rights over

the suit premises. The Family Court had observed that since the respondent was the owner of the premises, he cannot be restrained from creating any third party rights in respect thereof. However, in such a eventuality, the rights of the petitioner of residence will have to be taken care of. This Court had found no error with the view taken by the Family Court and dismissed the petition.

2 The petitioner seeks review of the order on as many as 18 grounds stated at grounds (a) to (r). At grounds (a) and (b), the petitioner claims that she had kept an additional affidavit to be filed which was not taken on record. There is nothing on record to indicate that the petitioner had kept such an affidavit ready for filing in the court. As regards grounds (c), (d), (e) and (f), the same relate to the dispute between the petitioner and her parents-in-law, which was not part of the writ petition and the order impugned in the writ petition. Grounds (g), (h) and (i) relate to certain decisions mentioned at ground (g), which were not cited before the court. Therefore, there cannot be review of the order on the arguments that had not been advanced. Grounds (j) and (k) are in the nature of further additional submissions on the merits of the petition. Grounds (l), (m) and (n) raise a contention that this court ought to have appreciated the submission of the petitioner in a different way. That also cannot be a ground for review under the Code of Civil Procedure. As regards ground (o), the

petitioner seeks to contend thereby that since the same issue as in the present petition is involved in the petition pending before the Division Bench, this court ought not to have decided the petition. Admittedly the dispute pending before the Division Bench is the dispute between the petitioner and her parents-in-law. Grounds no. (p), (q) and (r) are in the nature of challenge to the impugned order. Thus, none of the grounds stated in appeal fall within the purview of Section 114 Code of Civil Procedure, there is no case made out by the petitioner for review of the order. Hence, the Review Petition is dismissed.

3 In view of dismissal of the Review Petition, the Civil Application No.37 of 2017 does not survive. The same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)