

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.7196 OF 2017

Rashmi Kishor Gala	]	Petitioner
Vs.		
Prafulkumar Raghavji Kenia	]	Respondent

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Mr. Vijay Patil i/b Mohan Tekavde, Advocate for the Petitioner.
Mr. Nishant Subhash Vyas a/w Yagnesh Mahesh Vyas, Advocates for the Respondent.

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CORAM : R.G. KETKAR, J.

DATE : 24TH JUNE, 2019.

P.C.

Heard Mr. Patil, learned Counsel for the petitioner and Mr. Vyas, learned Counsel for the respondents.

2. This Petition takes exception to the order dated 24th February, 2017 passed by the learned trial Judge in Review Application No.20 of 2016. By that order, the learned trial Judge allowed the Review Application filed by plaintiff No.2 seeking review of the order dated 12th August, 2016.

3. In view of Order-XLIII, Rule-1 (w) of the Code of Civil Procedure, 1908 (for short 'C.P.C'), the petitioner has an equally efficacious alternate statutory remedy of filing appeal before the Appellate Bench of the Court of Small Causes.

4. Mr. Patil assures that the petitioner will file appeal before the Appellate Bench of the Court of Small Causes within three weeks from today. He submits that the time spent by the petitioner in prosecuting this Petition in this Court from 20th April, 2017 till date shall be excluded while considering the issue of limitation.

5. In view thereof, the Petition is disposed of reserving liberty to the petitioner to file appeal under Order-XLIII, Rule-1(w) of the C.P.C. If the appeal is filed within three weeks from today, the time spent by the petitioner in prosecuting this Petition bona fide in this Court from 20th April, 2017 till date shall be excluded while considering the issue of limitation. It is made clear that I have not examined merits of the case. All contentions of the parties on merits are expressly kept open.

[R.G. KETKAR, J.]