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

**CIVIL APPLICATION NO.560 OF 2015
IN
APPEAL FROM ORDER (ST) NO.34587 OF 2014
WITH
APPEAL FROM ORDER (ST) NO.34587 OF 2014.**

Chandrakant Krishna Shetty	...	Applicant
V/s.		
The Municipal Corporation of Greater		
Mumbai and ors	...	Respondents

Mr. Dushyant Krishna i/by Omkar M. Kulkarni, for
the the applicant.
Mrs. Madhuri More, for respondent corporation.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 8th JANUARY, 2019.

P.C. :

- 1] Heard learned counsel for the applicant and respondent.
- 2] This application seeking condonation of delay of 39 days in challenging the order dated 26.9.2014, passed in the Notice of Motion No.1900 of 2014 in L.C. Suit No.1055 of 2014. The said order was passed under Order 39 Rule 2-A of the Code of Civil Procedure.
- 3] Learned counsel for respondent corporation brings to the notice of this Court that Appeal is not maintainable against such an order, as the proper remedy is Writ Petition. In this respect, she has

placed reliance on the judgment of this Court in the case of *Bholeshankar Awas Gruha Nirman Sahakari Sanstha Maryadit, Nagpur Vs. Omprakash Dwarkaprasad Malviya* [2008 (5) Mh. L.J.952].

4] In view thereof, the Appeal is clearly not maintainable and hence Appeal stand disposed off as dismissed.

5] In view of dismissal of Appeal itself, pending Civil Application therein becomes infructuous and the same is disposed off.

[DR.SHALINI PHANSALKAR-JOSHI, J.]