

SPChauhan

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 223 OF 2016
WITH
CIVIL APPLICATION NO. 9257 OF 2017
WITH
CIVIL APPLICATION NO. 9256 OF 2017

Julekha Anwar Sayyad

... Applicant

Versus

Vishwanath Purushottam Chandekar Deceased
Through Lrs Charushila Vishwanath Chandekar
and others

... Respondents

....
Mr. N.V. Gaware – Advocate for Applicant
Mr. A.D. Ostwal – Advocate for Respondent Nos. 1-b to 1-f
....

CORAM : GAURI GODSE, J.
DATE : 07th February, 2023

PER COURT :

1. Learned counsel appearing for the applicant submits that the order impugned in the Revision Application is appealable in view of Order XXI Rule 103 of the Code of Civil Procedure, 1908. Hence, he seeks leave to withdraw the Revision Application with liberty to file an appeal.
2. Leave is granted as prayed.
3. Needless to record that the petitioner will be entitled to seek benefit of the period that was consumed for the purpose of

litigating this Civil Revision Application, as a ground for condonation of delay.

4. Civil Revision Application is dismissed as withdrawn with liberty as prayed.
5. Learned counsel appearing for the applicant submits that the interim protection granted in his favour be extended to enable him to file the appeal.
6. Learned counsel appearing for respondent decree holder strongly opposes such request on the ground that the suit was filed in the year 1985 and the decree of eviction is passed on 26th July, 2004. He, further, submits that the original judgment debtor never preferred an appeal against the decree of eviction. However, in view of the obstruction raised by the applicant the decree is still not executed.
7. The applicant had filed an application in executing Court, thereby, raising various grounds with respect to the manner in which the proceedings were dealt with by the respondent landlord. In the entire application which is filed in the execution proceedings, it is nowhere stated with respect to the source of knowledge and date of knowledge of the eviction decree. There is no specific statement that the applicant was not aware with respect to the execution proceedings and / or the eviction decree that was passed.
8. In such circumstances, I do not see any reason to extend the interim relief of protection which was granted in this Civil

Revision Application. It will be open to the applicant to make necessary application for interim protection in the appeal that will be preferred.

9. In view of the dismissal of the Civil Revision Application, the pending Civil Applications are dismissed as infructuous.

[GAURI GODSE]
JUDGE