

SA Pathan

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

WRIT PETITION NO.4171 OF 2022

Kishore Baldev Ahuja	... Petitioner
V/s.	
M/s. Shanti Construction and Ors.	... Respondents

SHABNOOR
AYUB
PATHAN

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Date: 2023.08.23
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Mr. Viraj Shelatkar, for Petitioner.

Mr. Zoheb Merchant i/by Ms. Minal Chandnani, for
Respondents.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 22, 2023

P.C.:

1. The challenge in the petition is to the order passed in exercise of power under Order 21 Rule 58 of the Code of Civil Procedure, 1908 (for short 'CPC'). Sub-Rule 4 of Order 21 Rule 58 confers status of decree on an adjudication under Rule 58 of Order 21 of CPC. Therefore, remedy of person aggrieved is to file appeal against the decree.
2. Learned Advocate for petitioner seeks permission to withdraw the petition with liberty to file appeal before the appropriate Court.
3. Considering nature of controversy, period spent in prosecuting of the present writ petition shall be excluded while considering appeal filed by the petition.

4. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)