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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.13121 OF 2023

Smt.Prabhavati M. Kumathekar ...Petitioner

V/s.

Swastik Enterprises, Kolhapur ...Respondent

Mr.Padmanabh D. Pise with Adv.Sejal A. Hariyan i/b
Padmanabh Associates for the Petitioner.

Mr.Bhavin Guda with Mr.Deepak Shukla and Adv.Satsang T. for
the Respondent.

CORAM : RAJESH S. PATIL, J.

DATE : 15TH JANUARY, 2024.

P.C. :-

1. This Writ Petition challenges the impugned order dated 18 August 2022 passed by the District Judge, Kolhapur, thereby rejecting the order below Exhibit - 5, in Civil Miscellaneous Application No.186 of 2022.

2. It is the case of the Petitioner that the eviction decree is passed in Regular Civil Suit No.17 of 2017. Being dis-satisfied,

the Petitioner filed an Appeal before the District Court. Since there was delay in filing the Appeal, the Petitioner also preferred Interim Application for condonation of delay. The Petitioner further submits the said Interim Application for condonation of delay is still pending for hearing. In the meantime, the Petitioner preferred an application for grant of stay to the execution of the decree passed by the Trial Court. The said Application seeking stay to the execution of the decree was numbered as Exhibit-5. The said Application seeking stay to the execution of the decree was rejected by the impugned order dated 18 August 2022.

3. I have heard both the side and have gone through the documents on record. It is a matter of record that the Interim Application, seeking condonation of delay in filing the Appeal is pending before the Trial Court. The impugned decree was passed on 21 January 2020. Soon thereafter pandemic started. The Appeal was filed on 11 November 2021 i.e. during the pandemic period. Suffice will be the purpose if the District Court is directed to hear the delay condonation application of the Petitioner as expeditious as possible and preferably within a

period of three weeks from today.

4. In the meantime, there will be stay to the execution of the decree dated 21 January 2020 passed in Regular Civil Suit No.17 of 2017. The order dated 18 August 2022 passed below Exhibit - 5 is quashed and set aside.

5. The Writ Petition is accordingly disposed of.

6. All parties to act on the authenticated copy of this order.

(RAJESH S. PATIL, J.)