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

WRIT PETITION NO. 3751 OF 2024

Ainuddin Siraj Mulla and Ors.

.. Petitioners

Versus

Mansur Babasaheb Mulla

.. Respondent

-
- Ms. Tanvi Phatak, Advocate i/by Mr. Sachin Hande, Advocate for Petitioners.
 - Mr. Padmanabh D. Pise a/w. Sejal A. Hariyan i/by P.Padmanabh & Associates for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 18, 2024.

P.C.:

1. Heard Ms. Phatak, learned Advocate for Petitioners and Mr. Pise, learned Advocate for Respondent.

2. Present Writ Petition takes exception to the impugned order dated 01.01.2024 passed by the learned Trial Court in Regular Darkhast No.4 of 2016.

3. In the present Writ Petition, Petitioners are the Defendants in Regular Darkhast proceedings. During the pendency of the Writ Petition, Plaintiff has on the basis of decree obtained in the Trial Court filed Execution proceeding in the District Court. In those Execution proceedings, warrant has been issued which is the subject matter of challenge in the present Writ Petition.

4. Ms. Phatak, learned Advocate appearing for the Writ Petitioner would submit that the decree passed by the learned Trial Court has been substantively appealed against in the District Court, but there was a delay in filing the Appeal of 213 days. She would submit that an Application for condonation of the delay was filed before the District Court, but the same was rejected. According to her, ground for rejection is that the Appeal had stood abated. Hence, the Judgment Debtor filed Application for setting aside of the abatement which has also been incidentally rejected.

5. At this stage, Mr. Pise, learned Advocate for Respondent has interjected. He appears for the decree holder. He has drawn my attention to the order dated 21.02.2024 passed in Second Appeal No.97 of 2024 filed by the Writ Petitioner before me. Copy of the said order is handed over to Ms. Phatak. She is directed to take immediate cognizance of this order. She would submit that in view of this order itself Writ Petition (St) No.6268 of 2024 was filed. She would submit that the said Writ Petition has been allowed by the Court.

6. In view of the above, list Writ Petition (St.) No.6268 of 2024 alongwith the present Writ Petition on **21st March, 2024** under the caption “For Directions”.

[MILIND N. JADHAV, J.]