

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

**WRIT PETITION NO. 2912 OF 2024
WITH
INTERIM APPLICATION NO. 7508 OF 2024**

Baban Namdeo Bhondve ... Petitioner/Applicant

V/s.

Dattatray Narayan Bhondve and Ors. ... Respondents

Mr. Abhinav Chandrachud with Mr. Pawan Patil, Yatin Yeole i/b. Sidheshwar N. Biradar for the Petitioner
Mr. Girish Godbole, Senior Advocate i/b. Deepashikha Godbole and Aditya Joshi for Respondent No.1

CORAM : ALOK ARADHE, CJ.

DATE : 07 JULY 2025

Oral Order :

1. In this Petition under Article 227 of the Constitution of India the Petitioner challenged the validity of the order dated 7 December 2022 passed by the Joint Civil Judge, Junior Division, Pimpri, Pune in Civil Misc. Application No.23 of 2014.

2. The learned Senior Advocate for Respondent No.1 has raised the preliminary objection with regard to maintainability of the Writ Petition on the ground that the Petitioner ought to have resorted to the remedy of filing the Petition under Section 115 of the Code of Civil Procedure as the bar

contained in proviso to Section 115(1) of the Code of Civil Procedure does not apply.

3. The learned Counsel for the Petitioner submits that this court while entertaining the Writ Petition had granted an ad-interim order and the same be continued for some time so as to enable the Petitioner to avail of the remedy of revision.

4. I have considered the submissions made on both sides.

5. The impugned order dated 7 December 2022 arises out of an execution proceedings. Therefore, the bar contained in proviso to Section 115(1) of the Code of Civil Procedure does not apply to the facts and circumstances of the case. Therefore, the impugned order can be challenged by way of revision petition under Section 115 of the Code of Civil Procedure. A Bench of this Court while entertaining the Writ Petition had granted an ad-interim order on 1 March 2024. In order to enable the Petitioner to avail of the remedy of revision, it is directed that ad-interim order dated 1 March 2024 shall continue for a further period of four weeks. Needless to state that the Petitioner shall be at liberty to file a revision petition along with an application for condonation of delay. Needless to state that the Petitioner shall be entitled to plead in the petition that the Petitioner is entitled to benefit of principle contained in Section 14 of the Limitation Act, 1963.

6. The learned Senior Advocate for Respondent No.1 submits that the correct copy of the plan has been served on the learned Counsel for the Petitioner. However, inadvertently another copy of the plan has been annexed with the affidavit in reply. In view of aforesaid submission he is permitted to substitute the correct copy of the plan along with the affidavit in reply. A copy of which is already supplied to the Petitioner.

7. With the aforesaid liberty, the Petition and the Interim Application are disposed of.

8. All contentions are kept open to be agitated.

(CHIEF JUSTICE)