

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1170 OF 2024
IN
FIRST APPEAL (ST) NO. 1743 OF 2024

Dr. Kirti Varde

...Applicant/
Appellant

IN THE MATTER BETWEEN :

Dr. Kirti Varde

...Appellant

Versus

Chemofine Industries And Ors

...Respondents

*Mr. Manek Kalyaniwalla a/w Mr. Vipul Bilve i/b Mulla And Mulla And
Craigie Blunt & Caro for the Applicant /Appellant*

Mr. Prathamesh Bhosle i/b Mr. Girish Pikale for the Respondent No.1

Mr. Avinash Joshi for the Respondent Nos. 5 and 6

CORAM : SHARMILA U. DESHMUKH, J.

DATE : APRIL 29, 2026

P. C. :

1. The Interim Application has been preferred seeking leave to file First Appeal against the impugned order dated 11th June 2018 which was passed in an application filed under Order XXI Rule 35, 97 to 103 of the Code of Civil Procedure, claiming independent right to the suit flat, which came to be dismissed.

2. As the order arises out of obstruction proceedings, as per the provisions of Order XXI Rule 103, the same is treated as a decree and

First Appeal would lie. It is therefore not necessary for the Applicants to take out an application for leave to file Appeal, as the First Appeal does not challenge the judgment which was put into execution, but challenges the order which was passed on the obstruction notice.

3. By way of abundant caution, the Applicant has filed the present Application seeking leave to file an Appeal. There cannot be any opposition to the said Application considering the statutory provisions.

4. In light of the above, though this Court is of the view that there was no necessity for filing of Application seeking leave to file Appeal, the Application is allowed.

5. The Applicant is granted leave to file the First Appeal against the order dated 11th June 2018.

6. List the First Appeal for further consideration on **9th June 2026**.

[SHARMILA U. DESHMUKH, J.]