

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

WRIT PETITION NO.9156 OF 2014

Chandrakant Shivlingappa Hippargi : Petitioner.
Versus
Siddharam Veerappakshappa Bhusnure and anr. : Respondents.

Mr. Ashok B Tajane for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 26th February 2015

P.C.

1 The order dated 6/1/2014 passed by the Lower Appellate Court i.e. the Learned District Judge, Solapur is taken exception to by way of the above Petition. By the said order the Lower Appellate Court has granted stay to the execution of the decree passed by the Trial Court till the final disposal of the Appeal in question being Civil Appeal No.3 of 2014.

2 The principal grievance of the Petitioner is that the said order has been passed without issuing notice to the Petitioner and therefore without hearing the Petitioner. The Petitioner herein is the original Plaintiff in the suit in question filed for specific performance of the contract which suit has been decreed by the Trial Court by the judgment and order dated 27/11/2013. It appears that the application for stay of the said decree was filed on 4/1/2014 and immediately thereafter on 6/1/2014 the impugned order has been passed. Hence prima facie there appears to be substance in the contention urged on

behalf of the Petitioner/Plaintiff that the said order has been passed without issuing notice and without hearing the Petitioner/Plaintiff.

3 However, considering the fact that the Appellants who are the Defendants have challenged the decree of specific performance passed against them, in my view, without going into the merits of the impugned order, it would be just and proper to direct the Lower Appellate Court to hear and decide the said Civil Appeal No.3 of 2014. Hence having regard to the said directions to be issued, the notices are not issued to the Respondents in the above Petition.

4 The learned counsel appearing for the Petitioner/Plaintiff states that the Petitioner/Plaintiff would be satisfied if such a direction is issued. Hence the Lower Appellate Court is directed to hear and decide the Civil Appeal No.3 of 2014 latest by 30/06/2015. The Lower Appellate Court may direct the Appellants to file a private paper book to facilitate the expeditious disposal of the Appeal. With the aforesaid directions, the above Writ Petition is disposed of. Needless to state that the contentions of the Petitioner/Plaintiff on merits are kept open for being urged before the Lower Appellate Court.

[R.M.SAVANT, J]