

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 9578 OF 2016**

Niyojit Shri Soubhadra Gruharachana  
Sanstha Maryadit

..PETITIONER

VERSUS

Machindra Krishna Kalamkar and Others

..RESPONDENTS

....  
Mr. L.B. Palod, Advocate for petitioner.  
....

**CORAM : T.V. NALAWADE, J.  
DATED : 14<sup>th</sup> DECEMBER, 2016**

**ORDER :**

1. The petition is filed to challenge the order made on Exhibit 7 in Civil Miscellaneous Application No. 256 of 2014 which is pending in the Court of District Judge, Ahmednagar. Heard learned Counsel for petitioner.

2. The aforesaid proceeding is filed by Respondent Nos. 1 and 2 – original plaintiff of the suit for condonation of delay caused for filing Regular Civil Appeal. In that proceeding, application at Exhibit 7 was moved for interim relief. The District Court has given interim relief due to which the present petitioner – original defendant is prevented from

alienating the suit property in any way and by creating interest in favour of the third party in any way.

3. Learned Counsel for petitioner submitted that in view of provision of Order 41 Rule 3A, such order could not have been made. This Court has carefully gone through that provision. That provision prevents the Court from granting stay to the execution of decree. In the present matter, there is no question of execution of any decree as the suit of the plaintiff – respondent is itself dismissed.

4. In view of relief of limited nature is granted by the District Court and that will remaining in force in the delay condonation application, this Court holds that it is not desirable to interfere in the order made by the District Court and the aforesaid provision cannot be used in favour of the present petitioner. In the result, petition stands dismissed.

**( T.V. NALAWADE, J. )**

SSD