

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

925 CIVIL APPLICATION NO. 13707 OF 2013
IN SA/163/2009 WITH CA/2689/2009 IN SA/163/2009

GIRIJABAI SURJITSING
VERSUS
BHUJAJI MANEJI SOMWARE AND ORS

...
Advocate for Applicant : R.R. Deshmukh h/f. Natu Sharad V.
Advocate for Respondents 1 to 4, 7 to 11 : V. D. Salunke
...

CORAM : T.V. NALAWADE, J.
DATED : 4th May, 2016.

ORDER :

1. The learned counsel for appellant submitted that the stay is given in the year 2009 and application is filed in the year 2013 and that shows that the applicant, original plaintiff is not in need of any maintenance. Alternatively, he submitted that some amount like Rs.2,000/- may be given by way of maintenance.

2. The appellant is brother of plaintiff. There is decree of partition in favour of plaintiff and if she succeeds she will be getting her share which is 3 Hectors 5 R. land. Submissions were made by the learned counsel Shri. Salunke for the appellant that the land is Jirayat and crops like Udad, cotton, Tur etc. were taken and not much income can be made from the area of 3 Hectors 5 R. land. It appears that stay is granted by this Court

without imposing any condition and due to the interim relief, in a suit which was filed in the year 1999 the plaintiff could not get anything though the suit was decreed in the appeal. In view of these circumstances, this Court holds that in the interest of justice and to see that the applicant get something for her survival, some amount needs to be paid by the appellant for her maintenance. It is the contention of the original plaintiff that she is deserted by her husband and she has no source of income. The stay was granted in the year 2009.

3. In view of the aforesaid submissions, this Court holds that the condition needs to be imposed for such stay that the maintenance at the rate of Rs. 2000/- (Rupees two thousand) per month needs to be given to the original plaintiff from the date of stay granted by this Court. The arrear amount need to be deposited within six weeks from today. The application is allowed and disposed of accordingly. If the amount is not deposited within aforesaid period, it is to be presumed that the stay is vacated. Appeal itself will be heard finally on 13.6.2016.

[T.V. NALAWADE, J.]

ssc/