

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3805 OF 2016**

Pralhad Krishna Gilbile

Petitioner

Vs

Raghunath Narayan Tapkir, s since
deceased through L.R

.. Respondents

1a- Muktabai Raghunath Tapkir and

Ors.

Mr. Sudhir Vinayak Sadavarte, Advocate for Petitioner.

CORAM : R.G.KETKAR,J.

DATE : 01/04/2016

PC:

1. Heard Mr. Sudhir V. Sadavarte, learned counsel for the petitioner at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged order dated 10.12.2015 passed by the learned trial Judge. By that order, the learned trial Judge returned the papers to the Collector for effecting partition as per the decree.

3. It appears that pursuant to the partition decree, Tahasildar has accepted the partition chart prepared by Taluka Inspector of Land records, Haveli, Pune, by order dated 9.1.2012 and ordered handing over possession as per the partition chart on 24.1.2012. Mr. Sadavarte submitted that initially against the order dated 3.10.2011 passed by this Court in Writ Petition No.4661 of 2010, Special Leave Petition was preferred before the Apex Court. By order dated 13.1.2012 notice was issued and in the meantime parties were directed to maintain status quo with regard to the

suit property. He further submitted that aggrieved by the order of Tahasildar Havili Pune dated 9.1.2012, the petitioners have preferred R.T.S. Appeal No.150 of 2012 before Sub Divisional Officer, (Revenue), Havili Sub Division, Pune. As per order dated 13.1.2012 of Apex Court, as status-quo was operating, the petitioners did not apply interim order in the appeal. The S.L.P was dismissed on 27.11.2015. He states that within two weeks from today, the petitioner will file appropriate application in the pending appeal for obtaining interim relief. He submits that for a period of three weeks from today, proceedings before the Collector may be stayed so as to enable the petitioner to obtain suitable interim order.

4. In view thereof, Petition is disposed of as not pressed with liberty to the petitioner to take out appropriate application for interim relief within two weeks from today in the pending appeal. For a period of three weeks from today, the Collector shall not effect partition. Grant of liberty as also grant of interim order for a period of three weeks from today shall not be construed as an expression of merits either way. If such application for interim relief is taken out, the Appellate Authority will decide the same on the basis of material on record and in accordance with law uninfluenced by the observations made herein. Petition is disposed of as not pressed. All contentions of the parties are

expressly kept open. All the parties including Collector to act upon the authenticated copy of the order. Order accordingly.

(R.G.KETKAR, J.)