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

WRIT PETITION NO. 10725 OF 2016

Shivaji Daulatrao Bankar ...Petitioner
vs
Sunita Umesh Hingde & Anr. ...Respondents

WITH

WRIT PETITION NO. 10726 OF 2016

Shivaji Daulatrao Bankar ...Petitioner
vs
Akshay Sanjay Bhalerao & Anr. ...Respondents

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Mr M.M.Sathaye i/b Sanjay P. Shinde for the Petitioner in both
petitions
Mr Sachin Gite for the Respondents in both petitions

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**CORAM : N. M. JAMDAR, J.
17 OCTOBER, 2016**

P.C. :

Both these Petitions arise from the same suit i.e. Special Civil Suit No. 83 of 2015 filed by the Petitioner who is the original Plaintiff. The suit is filed by the Petitioner seeking recovery of monetary claim from the Respondent. The Petitioner, during pendency of the suit, moved an application for attachment on 5 December 2015, on the apprehension that the Respondent / original Defendant may dispose of the property. By two separate orders, the learned Civil Judge, Senior Division, Niphad passed an order attaching

the properties of the Respondent/ Defendant.

2 According to the Petitioner, during pendency of the order of attachment, the Respondent / Defendant sold two properties of the Defendant which were under attachment, to the third party overreaching the order of attachment and defeating right of the Petitioner. The third party purchasers thereafter applied to the learned Civil Judge for lifting order of attachment. The application was rejected by the learned Civil Judge. Thereafter, appeals were preferred by the Respondent, third party purchasers in the District Court, Niphad. Learned District Judge, Niphad, by the orders impugned in this Petition set aside the order passed by the learned Civil Judge and lifted attachment in respect of the properties specified in the impugned order. Thereafter, the present Petitions are filed.

3 The Petitions came up on board on 16 September 2016 when it was directed for any change in the record of Grampanchayat will be subject to further orders and that in case the Respondent intended to create third party rights in respect of the properties which are subject matter of the Writ Petition, they will not do so without seeking leave of the Court. Learned counsel for parties after arguing the matter for sometime jointly submit that the position under order dated 16 September 2016 can continue till disposal of the suit and that the Petitioner will join third party purchasers as a party defendant for complete adjudication of the dispute and the interim order can continue till the disposal of the suits. In view of this position, both

these Petitions are disposed as follows.

4 The Petitioner will join the third party purchasers as a party defendant in the suit and for that purpose will make an appropriate application to the learned Civil Judge within a period of four weeks from today, which application the learned Civil Judge will grant. Since it is in dispute as to whether the Respondents have purchased the property bona fide and that *prima facie* purchase was under the order of attachment was in existence, no change will be carried out in the records of the Grampanchayat till further orders to be passed in the suit. The Respondents will not create any third party rights in respect of the suit properties without making any application to the learned Civil Judge, which application, if made will be considered on its own merits. Both Writ Petitions are disposed of in the above terms.

(*N.M.JAMDAR J.*)