

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

WRIT PETITION NO. 2052 OF 2016

Zipabai @ Shantabai Kisan Rathod

..PETITIONER

VERSUS

Shivraj Raghunath Homegaonkar and Others

..RESPONDENTS

....
Mr. N.J. Patil, Advocate for petitioner.

Mr. S.P. Urgunde, Advocate for respondents.
....

**CORAM : RAVINDRA V. GHUGE, J.
DATED : 26th JULY, 2017**

ORDER :

1. This Court (Coram: V.K. Jadhav, J.) while issuing notices to the respondents on 24th February, 2016 has observed in paragraph nos. 3 and 4 as under:-

“3. The learned Counsel for the petitioner submits that, the Trial Court has allowed the application Exh.131 by order dated 18.2.2014 and thereby restrained the defendants from carrying out any construction over the suit property till the disposal of the suit. Aggrieved by the same, the respondents- defendants preferred Misc. Civil Appeal No. 25 of 2014 before the District Court, Latur. The learned District Judge-2, Latur vide its impugned order dated 2.9.2015 allowed the appeal and thereby set aside the order passed by the Trial Court below Exh.131. Learned counsel submits

that, even during the pendency of the said appeal, the order passed by the Trial Court below Exh.131 was not stayed.

4. In view of this, till the next date of hearing, parties to maintain status-quo, as on today.”

2. I have considered the submissions of the learned Counsel.

3. It is not in dispute that the Regular Civil Suit filed by the petitioner – widow, was originally numbered as R.C.S. No. 46 of 1999. After transfer to another Court, it has been registered as R.C.S. No. 20 of 2008.

4. Considering the controversy between the parties and the construction at issue which is said to be now completed by the respondents, I deem it proper to continue the ad-interim order passed by this Court on 24th February, 2016 and expedite the suit as it is eighteen years old.

5. In the light of the above, this petition is disposed of with a direction to the Trial Court to decide R.C.S. No. 20 of 2008 as expeditiously as possible and in any case on or before 28th February, 2018. Needless to state, since the suit is instituted in 1999, the litigating sides shall cooperate with the Trial Court and refrain from seeking adjournments on unreasonable and trivial grounds. The Trial Court would be at liberty to impose costs if such instances are noticed.

The interim protection of this Court would continue till the disposal of the suit as directed above.

(RAVINDRA V GHUGE, J.)

SSD