

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

1 CIVIL APPLICATION NO. 12411 OF 2017
IN FA/2184/2016

RAMKISHAN SHANKARRAO MADANE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Applicant : Mr. P.R. Katneshwarkar h/f. Mr. S.S. Manale
AGP for Respondent/State : Mr. S.J. Salgare
Advocate for Respondent 2 : Mr. S.S. Dande
Advocate for Respondents 4 to 7 : Mrs. Savita E. Madane
Advocate for Respondents 8A to 8F : Mr. A.B. Kale

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**CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.**

DATED : December 18, 2017.

ORDER :

. The application is filed for modification of the order made by this Court in civil applications which were filed in first appeals. By order dated 6.3.2017, this Court had allowed the applicant to withdraw some portion of the amount after giving either bank guarantee or solvent surety. The applicant wants modification so that he can give his own land as security.

2. This application is opposed by one of the legal heir of Eknath, who was real brother of branch of the applicant. It is the contention of legal heir of Eknath that substantive suit (RCS No. 448/17) for partition is filed by them in civil court and in that suit,

land Gat No. 39 which is offered as security is also shown as suit property. In the said suit, application for temporary injunction is also filed and notices are issued by the Trial Court.

3. In view of the aforesaid circumstances, it is desirable that this Court does not make any order like modification of the order already made by this Court. It is open to both the sides to approach the Civil Court where substantive suit is pending and which can *prima-facie* decide the entitlement of the parties in application filed for relief of temporary injunction. With these observations, the present application is disposed of. Only after getting of the order from Civil Court, there will be liberty to the applicant to move this Court.

4. Learned counsel Shri. Kale submitted that the present applicant has filed S.L.P. against the order made by this Court. But the learned counsel Shri. Katneshwarkar on instruction submits that no such proceeding is filed.

[SANGITRAO S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/