

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 107 OF 2015
IN
FAMILY COURT APPEAL NO.59 OF 2015**

Mrs. Anjana Prem Bhatia

..Applicant

Vs.

Mr. Prem Lalchand Bhatia

..Respondent

Mr. Laxman P Kanal for the Applicant / Appellant

Mr. Sajan Oommen i/b Mrs. Gazala Khan for the Respondent

CORAM :R. M. SAVANT, &

SMT. SADHANA S JADHAV JJ

DATE : 21st JULY, 2017

PC.

1 The above Civil Application has been filed by the Applicant original Appellant seeking stay of the impugned judgment and decree till the hearing and final disposal of the above Family Court Appeal. The Applicant is also seeking a stay of the permanent injunction granted against the Applicant restraining her from entering into the rest of the flat except the self contained room allotted to her. The Applicant has also sought a stay of the directions issued by the impugned order directing the Applicant to move into the self contained room of the matrimonial home (the room marked in Red ink in the drawing of the flat placed on record in the Family Court) presently occupied by the Respondent within two weeks from the date of the order as also the directions to make the payment of maintenance contingent upon the Applicant shifting to the self contained room (shown in red) as also the stay of the

injunction restraining her from entering into the room of the son Rahul as well as the kitchen. Having regard to the prayers in the above Civil Application a Division Bench of this Court (A. S. Oka and Smt. Anjua Prabhudesai, JJ) by order dated 5-12-2016 in the context of the reply filed on behalf of the Respondent husband as also in the context of what had been stated by the Applicant in her affidavit dated 30-11-2016, had appointed a Court Commissioner to visit the flat in question and submit a report.

2 Pursuant to the said order, the Section Officer, Mr. Yogesh Pradhan, of the Appellate Side was appointed as the Court Commissioner who has submitted his report dated 19-12-2016. We have perused the said report. We are more than satisfied that the room to which the Applicant is to shift is a self contained room and the facilities can further be improved which facilities are pointed out in the Court Commissioner's report. The Court Commissioner in the said report has mentioned that there is no water facility, no sink and no drainage connection adjacent to the kitchen platform as also no provision for keeping the cooking equipments / utensils. It has also been mentioned in the report that the paint of the said room is peeling of and therefore the room would require to be repainted.

3 The Learned Counsel appearing for the Respondent-husband Mr. Oommen on instructions states that the facilities which are shown to be

lacking in the Court Commissioner's report and which have been adverted to hereinabove, would be got done by the Respondent-husband as expeditiously as possible after engaging a contractor for the said purpose. The Learned Counsel also fairly states that the room would also be got painted so as to facilitate the Applicant for moving into the said room. In view of the said statement made by Mr. Oommen, the relief sought vide the above Civil Application cannot be granted. In view of the said statement made by Mr. Oommen, the following directions are issued :

- (i) The Respondent would get works done relating to providing water facility, sink and connecting the same to the drainage on or before 31-8-2017 as also make provision for keeping the cooking equipment / utensils. The Respondent-husband also to get the room painted within the aforesaid period.
- (ii) On the Applicant shifting to the said room, she would become entitled to the payment of Rs.10,000/- as maintenance in terms of clause (7) of the impugned judgment and order dated 21-3-2015.

4 With the directions as aforesaid, the above Civil Application is disposed of.

5 For compliance list the above Civil Application on 1-9-2017 to be shown in the caption of orders.

[SMT SADHANA JADHAV, J]

[R.M.SAVANT, J]