

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER ST. NO.34126 OF 2017
WITH
CIVIL APPLICATION ST. NO.34127 OF 2017
IN
APPEAL FROM ORDER ST. NO.34126 OF 2017**

Amrapali Atul More ... Appellant

Vs.

Suryakant More & Ors. ... Respondents

Mr.Chetan Shah with Parmeshwar Bhise, Sukhada Dalvi i/b Rakesh
Agrawal for the Appellant

Mr.S.D. Inamdar Shinde with B.A. Lawate for Respondent Nos.1 & 2

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: DECEMBER 22, 2017

P.C.:

1. This matter is listed today as per circulation granted by this Court.

2. *Ex-parte* ad-interim relief was granted on 29.5.2017 by the learned Judge of the City Civil Court, Mumbai, restricting the entry of the appellant / wife in the house where she was residing after her marriage alongwith her husband. The learned Counsel for the appellant submits that such an order cannot be passed by the learned Judge when the application is made only under section 152 of the Code of Civil Procedure.

3. On query from the Court, it is informed that the appellant/wife is residing in Pune in a hostel as she is having her job in Pune and now she is travelling everyday between Mumbai and Pune. She was residing in the house where her in-laws are residing. Due to the ad-interim injunction granted against her by order dated 27.11.2017, she had to leave the said house and now, she is staying at Pune. It is also informed that the original defendant No.1, the husband, has filed divorce petition against her in September, 2016 and thus, as per the submissions, *prima facie*, it appears that it may be a collusive suit. I am also informed that the Motion before the City Civil Court is now fixed for hearing on 5.1.2018.

4. Learned Counsel for the plaintiff/in-laws submits that written statement is already filed by the appellant and she has adopted the same as her affidavit in reply.

5. In view of the submissions, this appeal is disposed of with the following order:

- i) The trial Court to hear the Notice of Motion and decide the same on or before 15.1.2018.

ii) Defendant No.1, the husband, is directed to pay the hostel charges of the appellant from 1.12.2017 till the Motion is decided finally.

6. Appeal from Order and the Civil Application are disposed of in the above terms.

(MRIDULA BHATKAR, J.)