

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

WRIT PETITION NO. 14317 OF 2017

HANUMANT PANDHARINATH MALVADE
VERSUS
NISHIGANDHA VILAS PANSE AND OTHERS

...

Advocate for the Petitioner : Shri Amol Joshi h/f Shri Deshmukh R.S..

Advocate for Respondent 1 : Shri Jadhavar Shivprasad G..

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 10th July, 2018

Per Court:

1 This Court (Coram : V.K.Jadhav, J.) had heard the learned Advocate for the Petitioner and had recorded his submissions in the order dated 12.12.2017, which reads as under :-

- "1. *Heard.*
2. *Learned counsel for the petitioner submits that, aggrieved by the judgment and decree passed in RCS No.124/2011 petitioner/original defendant no.1 has preferred RCA No.20/2017. Pending the appeal, petitioner has filed an application exh.5 for staying the effect of judgment and decree passed by the trial court. Learned counsel submits that, trial court has not considered the agreement exh. 82 in its proper perspective and thus erroneously declared that she is having her share in a suit well, bore well, pipe line and electric motor. Learned counsel submits that, deceased father of respondent no.1/original plaintiff had executed said agreement and in terms of the said agreement, such a declaration cannot be made in favour of respondent no.1/original plaintiff. However,*

the lower appellate court has not considered the same and rejected the application exh.5 in toto.

3. *In view of the above, issue notice to the respondents, returnable on 30.1.2018.*
4. *Parties to maintain status-quo as on today, till the next date of hearing."*

2 I have considered the submissions of the learned Advocates appearing for the respective sides.

3 The ad-interim protection granted by this Court on 12.12.2017 is in operation even today. Regular Civil Appeal No.20/2017 is pending final adjudication. Rather than considering the entire controversy in this Court, which is practically like hearing the appeal, I find it appropriate to direct the Appellate Court to decide the appeal expeditiously.

4 Considering the above, this Writ Petition is disposed of. Ad-interim order passed by this Court on 12.12.2017 would continue till RCA No.20/2017 is decided. The Appellate Court shall decide the said appeal as expeditiously as possible and in any case on or before 31.12.2018. The litigating sides shall extend their cooperation to the Appellate Court and refrain from seeking an adjournment on unreasonable or trivial grounds.