

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION No.882 OF 2018
IN
CIVIL APPLICATION No.2011 OF 2015
IN
CIVIL APPLICATION No.1464 OF 2014
IN
SECOND APPEAL NO.616 OF 2014**

Shri Krishnadev Kakasaheb Jadhav & Ors. ... Applicants

IN THE MATTER OF:

Sou.Anita Krishnadev Jadhav Appellant/
Versus Original Plaintiff

Shri Krishnadev Kakasaheb Jhadhav & Ors. ... Respondents

Mr.Prosper D'souza with Dr.P.K. Deshmukh for the Applicants

Mr.P.R. Yadav for the Respondents

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 30, 2018**

P.C. :

1. Today, the application is moved praying that the order dated 25.4.2018 passed by this Court, is to be modified, especially to the extent of the house property i.e., House No.95, as mentioned in Extract 8/32 (1), situate at Jadhavwadi, Bhalwadi, Khanapur, District Sangli. It is submitted by the learned Counsel that the

Nazir / Superintendent of the District Court, Sangli is going to auction the property i.e., the house property on 1st August, 2018. He prays that the said auction is to be stayed and the order passed by this Court to the extent of house property i.e., House No.95 is to be modified.

2. The learned Counsel further offers in lieu of the said house property, the undivided share of the applicants in Survey No.593 and 624, to be attached, so as to clear the maintainance dues. He further submits that the respondent claims to be the second wife of the applicant. However, today, the applicant has come with his first wife and son. He submits that if at all the house is auctioned, then, his first wife and the children will come on road.

3. The learned Counsel for the respondents while opposing this application submits that the applicant has cheated the respondent while performing second marriage. He kept her in dark. It will be unjust not to give her maintainance.

4. Considered the earlier order; the submissions made by the learned Counsel for both the sides. In my view, while doing justice to the second wife, the Court cannot be unjust with the first wife

and the children. Therefore, as the applicant has offered his undivided share in Survey Nos.593 and 624 at village Jadhavwadi, Khanapur, District Sangli, in lieu of house No.95, the said undivided share may be attached and auctioned by the Nazir/Superintendent of the District Court, Sangli, after taking fresh and proper steps and following due procedure.

5. Thus, the order dated 25.4.2018 is hereby modified to the above extent and it is made clear that house No.95 which is a residential house of the applicant and his family shall not be auctioned but the property i.e., the undivided share in the Survey Nos.593 and 624 at village Jadhavwadi, Khanapur, District Sangli, shall be attached and auctioned. The entire process to be completed within two months from today. Parties shall cooperate in the entire process.

6. Civil Application is disposed of accordingly.

7. All concerned to act on an authenticated copy of this order.

(MRIDULA BHATKAR, J.)