

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

**CONTEMPT PETITION NO.284 OF 2017**

|                                 |                  |
|---------------------------------|------------------|
| Vinayak Mahadeo Sawant          | .... Petitioner  |
| V/s.                            |                  |
| Shardha Dnyaneshwar Bane & Ors. | .... Respondents |

Mr. R.R. Dube-Patil, i/by Ms. Shama Mulla, for the Petitioner.

None for the Respondents.

**CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.**

**DATE : 4<sup>TH</sup> APRIL, 2018.**

**P.C. :**

1. Heard Mr. Dube-Patil, learned counsel for the Petitioner.
2. This Contempt Petition is filed on the count that, the Respondents have created third party interest in the suit properties and parted with possession of the suit properties, despite the order of stay granted by the Appellate Court on 29<sup>th</sup> February 2014 in Civil Appeal No.58 of 2013.
3. The said Civil Appeal was preferred by the present Petitioner against the Judgment and Order of the Trial Court viz. Joint Civil Judge, Junior Division, Pen, dated 28<sup>th</sup> February 2013 passed in Regular Civil Suit No.106 of 2007, by which the 'Decree' for partition and separate possession of the suit properties was granted. At the time of preferring Civil Appeal No.58 of 2013 against the said Judgment and Decree, the Petitioner has also filed application for stay.

4. On this application, the Appellate Court was pleased to pass the following order :-

*“Heard. Decree is of partition and separate possession of the suit property. Possession is stayed, but Authority under Section 54 to proceed with till disposal of the Appeal.”*

5. Thus, it can be clearly seen that, the stay was granted only to the delivery of possession of the suit properties in execution of the 'Decree' for partition and separate possession. There is no specific order of injunction or even stay, restraining the other Respondents from creating third party interests in the suit properties or parting with possession by creating third party interests therein. In such situation, there is no case made out that the Respondents have committed any contempt of Court, so as to issue notice to them.

6. Hence, the Contempt Petition stands dismissed.

**[DR. SHALINI PHANSALKAR-JOSHI, J.]**