

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

**CIVIL APPLICATION NO.947 OF 2017
IN
SECOND APPEAL NO.520 OF 2017**

Smt Mulubai Appanna Patil

... Applicant

V/s.

Shri Dinkar Ganpati Patil

... Respondent

Mr. Prajakt M. Arjunwadkar for the Applicant.

Mr. Satyajeet A. Rajeshirke for the Respondent No.1.

CORAM : A.M.DHAVAL, J.

DATE : 12th OCTOBER, 2018.

P.C.:

. Heard learned advocates for the parties. Learned advocate for the appellant has argued that the Trial Court has decreed the suit of partition excluding the house property bearing No.861. The said decree was modified in the appeal filed by the plaintiff and the suit property was also included in the decree for partition. It is held that the plaintiff, defendant Nos. 1 to 4 (together) and defendant No.5 were to get 8/27th share each and the defendant Nos.6 to 9 were to get 1/28th share in the suit property.

2. Learned advocate for the appellant seeks stay since the appeal has been admitted. The decree will have to be stayed otherwise the appeal would become infructuous. It is argued that the property is leased out to educational institution.

3. Considering the rights of the decree holder the Civil Application is

allowed and the execution and implementation of the decree of the First Appellate Court is stayed to the extent of house property bearing No.861 subject to condition that the appellant shall deposit in the Trial Court 2/7th amount of rent from the date of decree of the First Appellate Court till today within one month and shall continue to deposit the said amount till the disposal of the appeal. Civil Application stands disposed of.

(A.M.DHAVAL, J.)