

Vidya Amin.

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

**CRIMINAL APPLICATION NO. 201 OF 2018
IN
WRIT PETITION NO. 179 OF 2017**

Sarika Satish Kataria ... Applicant
VS.
Satish Champalal Kataria & Anr. ... Respondents

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 16th October, 2018**

P.C. :

The second wife Nutan has filed Writ Petition No. 179 of 2017 challenging the order dated 8th December, 2016 passed by the Additional Sessions Judge, Pune in Criminal Appeal No. 545 of 2014 and also demanded maintenance of Rs.10,000/- per month.

2. In this Writ Petition, on 15th February, 2018 this Court while directing respondent no.1/husband to deposit 50% of the arrears of maintenance in this Court and has also in paragraph 6 directed respondent no. 1/husband not to create third party right in respect of his immovable property. The intervenor Sarika Kataria is admittedly the first wife of respondent no.1, who has filed the proceedings under Domestic Violence Act for maintenance and the

order of maintenance was passed in her favour. However, no amount of maintenance was paid, therefore, the applicant/intervenor has filed Darkhast No. 102 of 2012 in the Family Court No. 5, Pune for recovery of maintenance amount of Rs.1,42,327/- by attachment of property owned by respondent no. 1/husband. The learned Judge of the Family Court while allowing the Application by order dated 4th January, 2018 has passed the order of attachment of the property, which is described in operative clause no. (2) of the said order and respondent no. 1 was prohibited from transferring or creating charge on the property of his share, till further order.

3. In view of this order, the applicant/intervenor was allowed to proceed with the attachment in respect of the said property, however, the order dated 4th January, 2018 passed by the learned Family Court Judge-5, Pune was not placed before this Court when this Court has passed the order dated 15th February, 2018 directing respondent/husband not to part with the property. After hearing the learned counsel for both the sides, it appears that respondent no. 1/husband was married to the intervenor and has two children. Respondent no. 1 has also married to her sister

Nutan and has two children from that wedlock. The intervenor is staying on the ground floor and the petitioner is staying elsewhere with her children. Both the wives have filed proceedings under the Domestic Violence Act for maintenance. Under these circumstances, the order passed by this Court directing respondent no. 1 not to create third party interest in respect of immovable property needs to be explained. By the order dated 15th February, 2018, there is no bar in execution of the order dated 4th January, 2018 passed by the learned Judge of the Family Court, Pune. The said order can be executed, as by order dated 15th February, 2018 only respondent/husband was directed not to create third party interest but does not come in the way of attachment of property in the execution proceedings.

4. With this, Intervention Application is disposed of.
5. Place the Writ Petition on 14th December, 2018.

(MRIDULA BHATKAR, J.)