

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

**WRIT PETITION No. 3593 OF 2018
WITH
WRIT PETITION NO. 3594 OF 2018**

Dr.Hrishikesh Prakash Ghatge ...Petitioner

Versus

Smt.Subhaga Prakash Ghatge &Anr. ...Respondents

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Mr.Nitin P. Deshpande for the Petitioner.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JULY 19, 2018**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. Respondent No.1 /original plaintiff has filed a Special Civil Suit No. 542 of 2011 for declaration, partition and separate possession and mesne profits. The said suit was partly decreed by judgment and order dated 31st May, 2016 passed by the learned 4th Additional Judge, Small Causes Court and Jt. C.J.S.D. Pune. No appeal was filed by the petitioner, who is the original defendant. The original plaintiff has filed two proceedings: Special

Darkhast No. 99 of 2016 and Final Decree Application No. 15 of 2016. In Final Decree Application No. 15 of 2016, the defendant has filed applications below exhibits 14, 19 and 21 under Order 11 Rule 14 and Order 12 of the Code of Civil Procedure, 1908 seeking relief that the directions are to be issued to the decree holder to produce the documents mentioned in the said applications and also prayed for stay. The said applications were dismissed by the trial Court on 11th April, 2017 on the ground that steps under Orders 11 and 12 of the C.P.C. would have been taken by the defendant before trial.

3. The applications below exhibits 16 and 21 in Special Darkhast No. 99 of 2016 were also made on a similar line i.e., production of the documents, admission of the documents and stay to the execution proceedings. Those applications were also dismissed by the trial Court on 11th April, 2017.

4. Thus, these two orders are challenged in these Petitions.

5. The learned Counsel for the petitioner has submitted that if the plaintiff would have produced the documents in respect of the

expenditure, then the defendant would have considered to pay the said amount and the matter could have been settled.

6. Perused impugned orders. No appeal is filed by the petitioner/ defendant against the judgment and order dated 31st May, 2016 passed by the learned 4th Additional Judge, Small Causes Court and Jt. C.J.S.D. Pune and hence, there is no question of staying the execution proceedings. The learned Judge of the trial Court has taken correct view that the remedy under Orders 11 and 12 of the C.P.C. would have been availed by the defendant at the time of trial.

7. No interference is required in the orders dated 11th April, 2017 passed by the learned 4th Additional Judge, Small Causes Court and Civil Judge, Senior Division, Pune.

8. Hence, both the Writ Petitions are dismissed.

(MRIDULA BHATKAR, J.)