

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

WRIT PETITION No.7993 OF 2018

Smt.Bhamabai Mukundrao Nadhe & anr. ... Petitioners
Vs.

Shri Krishna Maruti Kate
since deceased, through:
Smt.Manisha Krishna Kate & Ors. ... Respondents

Mr.Sachin Dhakephalkar with Mr.Sanjay Gunjkar for the Petitioners

Mr.A.P. Kulkarni for the Respondent No.1B

Mr.T.D. Deshmukh for Resp. No.2

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 25, 2018**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. In this petition, the order dated 4.7.2018 passed by the learned District Judge, Pune in Application below Exhibit 5 in Civil Appeal No.306 of 2018, is challenged. The petitioners are the plaintiffs, who lost the suit before the trial Court. They filed the suit for partition. The said suit was dismissed on 14.3.2018. However, there was interim order in their favour and therefore, the trial Court by order dated 16.3.2018, continued that order of

injunction dated 14.3.2011 till the appeal period gets over. The appeal was filed on 26.6.2018 and the matter appeared for the first time before the lower appellate Court on 4.7.2018. The lower appellate Court did not extend the order of trial Court of injunction till hearing of interim application filed in the appeal. The appellate Court passed the order as follows:

“Notice to respondents r/o 19.7.18.
sd/- 4.7.18”

3. Learned counsel for the petitioners submits that though at the time of appearance on 4.7.2018, the advocate appearing for the petitioners i.e., the appellants, had pointed out the order of continuation of injunction which was passed by the trial Court on 16.3.2018, the learned District Judge did not continue the said order of injunction till the return of the notices or till the next date and, therefore, this Writ Petition.

4. I accept the submissions made by the learned Counsel with pinch of salt. If the learned advocate appearing before the appellate Court had pointed out the order of extension of the injunction passed by the trial Court on 16.3.2018 and yet, the learned District Judge did not continue the said order till the next

date, then it should have and the learned District Judge is not correct. If at all, it is not pointed out to the learned District Judge, then, it is the fault of the learned advocate in the appellate Court and the impugned order passed by the lower appellate Court ought not to have been challenged in the Writ Petition.

5. Be that as it may, this order is passed to point out how unnecessarily Writ Petitions are filed in the High Court against trivial orders. The learned District Judge to take note as also the learned advocate to take note. I am informed that the matter before the District Court is fixed on 31st July, 2018. The learned Counsel for the respondents make statement that they have not disposed of the property till today and will not dispose of it till 31st July, 2018.

6. Pursuant to the statement of the learned Counsel for the respondents that they have not disposed of the property, this petition is disposed of with an order that stay granted earlier is extended till return of notices. Further order to be passed by the learned District Judge.

(MRIDULA BHATKAR, J.)