

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

WRIT PETITION NO. 3608 OF 2017

Mrs.Sucheta Abhishek Kadam ... Petitioner

V/s.

Vijay Balkrishna Kadam and ors. ... Respondent

Mr. A.B.Tajane for the petitioner.

Mr.S.R. Gaud for Resp[odnent Nos. 1 and 2.

Mr. S.S. Hulke, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 04 October, 2018

P.C.:

1. By the present petition, the petitioner wife has impugned the Judgment and Order dated 4.7.2017 passed by the Additional Sessions Judge for Greater Mumbai in Criminal Appeal No.210 of 2017 thereby setting aside the Order dated 22.2.2017 passed below Exh.1 by the learned Metropolitan Magistrate, 15th Court, Mazgaon, (Sewree) Mumbai in CC No.45/DV/2016 granting interim relief to the petitioner.

2. Heard the learned counsel for the petitioner and the learned counsel for

respondent Nos. 1 and 2 . Perused the record.

2. The petitioner is the original applicant in Case No.45/DV/2016 filed under Section 12,17,18,19,20,22 and 23 of the Protection of Women from Domestic Violence Act, 2005. (for short, "the said Act") pending on the file of Metropolitan Magistrate, 15th Court, Mazgaon, at Sewree, Mumbai. The respondent Nos. 1 and 2 are the original respondent Nos. 2 and 3 in the complaint and are father-in-law and mother-in-law of the petitioner. The learned Metropolitan Magistrate by its Order dated 22.2.2017 passed below Exhibit-1 in the said CC NO.45/DV/2016 was pleased to grant interim relief in the form of injunction against respondent Nos. 1 and 2 thereby restraining them from selling, transferring or alienating, encumbering or creating third party right of whatsoever nature or handing over possession of shared houses i.e. 404 , Bharat Shatrughna Tower, Near Mafco Market, Sector No.18, Vashi, Navi Mumbai including their vegetable shop and flat at Narayangaon and four wheeler (Ertiga 7 seater) till final disposal of the said complaint. The respondent Nos. 1 and 2 feeling aggrieved by the said Order preferred Criminal Appeal No.210 of 2017 which has been partly allowed by the Appellate Court and the Order granting injunction stated earlier is set

aside.

3. Mr. Tajane, the learned counsel appearing for the petitioner submitted that, there is every apprehension that respondent Nos. 1 and 2 may either sell or create third party right, title or interest in the suit property which the petitioner claims to be the shared house hold till she was driven away from the matrimonial house by them and therefore, the interest of the petitioner may be adequately protected.

4. Mr. Gaud, learned counsel appearing for respondent Nos. 1 and 2 on instructions submitted that, till the final disposal of Application No.45-DV-2016 the respondent Nos. 1 and 2 will not alienate or create third party right, title or interest in the suit property, description of which is mentioned in earlier paragraph.

5. In view thereof , Paragraph No. 2 of the impugned Judgment and Order dated 4.7.2017 passed by the Additional Sessions Judge for Greater Mumbai in Criminal Appeal No.210 of 2017 is hereby quashed and set aside and Paragraph No.2 of Order dated 22.2.2017 passed by the learned Metropolitan Magistrate, 15th Court, Mazgaon, Mumbai below Exh.1 in CC No.45/DV/2016 is restored.

6. As the main application under Section 12,17,18,19,20,22 and 23 of the Protection of Women from Domestic Violence Act, 2005 is pending for final adjudication on the file of learned Metropolitan Magistrate, 15th Court, Mazgaon (Sewree) Mumbai is concerned, the learned Metropolitan Magistrate is hereby requested to make an endeavour to dispose of the said case expeditiously and within a period of one year from today.
7. Petition is accordingly disposed off.

(A.S.GADKARI, J.)