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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11698 OF 2018

Sulbha A. Patil	...Petitioner
V/s.	
Tukaram G. Ghadge, since deceased	
through His L.Rs. - Anil T. Ghadge, since deceased	
through His L.Rs. - Pratima A. Ghadge & Ors.	...Respondents

Mr.Rushikesh C. Barge for the Petitioner.

Mr.Pradeep D. Dalvi for the Respondent Nos.2-A to 2-C.

CORAM : R.D. DHANUKA, J.
DATE : 29TH OCTOBER, 2018.

P.C. :-

1. By this petition filed under under Article 227 of the Constitution of India, the petitioner has impugned the order dated 6th September, 2018 passed by the learned District Judge – 1, Kolhapur below Exhibit – 5 in Miscellaneous Civil Appeal No.193 of 2018.

2. The petitioner claims to be a daughter of the original defendant no.1, who has already filed a suit for possession. The said suit was decreed on 2nd August, 2011. The father of the petitioner had contested the said suit. The father of the petitioner expired on 10th September, 2011. The other brothers and sisters of the petitioner filed an appeal against the said judgment passed by the learned Trial

Judge. The said appeal came to be dismissed. A Special Leave Petition filed by the brothers and sisters of the petitioner claiming through the father also came to be dismissed. After gross delay, the petitioner herein preferred an appeal against the judgment and decree dated 2nd August, 2011 and applied for condonation of delay. In the said Miscellaneous Civil Application, the petitioner herein preferred an application (Exhibit – 5) *inter-alia* praying for the stay of the judgment and decree dated 2nd August, 2011 passed by the learned Trial Judge.

3. A perusal of the impugned order passed by the learned Trial Judge clearly indicates that the petitioner claims to be in possession of the premises after the date of the demise of father. Admittedly the petitioner was staying separately and had not been in the contact of the deceased father. Learned Trial Judge has rendered a finding that on the death of father, the petitioner along with other legal representatives were in possession of the suit premises and the said property was kept vacant.

4. Learned counsel for the petitioner however does not dispute that his client has alleged to have entered into the suit premises after the decree dated 2nd August, 2011 passed by the learned Trial Judge and after the demise of the father of the petitioner.

5. The impugned order dated 6th September, 2018 passed by the learned District Judge, rejecting the application filed below Exhibit – 5 is well reasoned order which is passed after considering the documents and the pleadings of both the parties and does not warrant any interference under Article 227 of the Constitution of India. The petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

(R.D. DHANUKA, J.)