

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**920 CIVIL APPLICATION NO.3739 OF 2017
IN
SECOND APPEAL NO.326 OF 2007**

**GAYABAI ANIRUDRA TIKTE
VERSUS
TUKARAM MARUTI TIKATE & ORS**

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Mr. A.M. Gaikwad, Advocate for the appellant

Mr. S.Y. Mahajan, Advocate for the respondent Nos.1 to 6, 9 and 13

Mr. R.K. Temkar, Advocate for the respondent Nos.7, 8, 10, 11 and 12

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 25th APRIL, 2019

PER COURT :

1 The application has been filed for directions to respondents to obey the order of this Court which was passed on 27.02.2008 and deposit the amount accordingly in this Court. The applicant contended that she being the 87 years old lady had filed the suit for partition i.e. R.C.S. No.331 of 1997, which was decreed. It was held that she was entitled to get 1/3rd share in the property. Thereafter, the defendants approached the First Appellate Court. The First Appellate Court has reversed the decree and therefore, she

has filed the Second Appeal. It is stated that the applicant has no source of income for maintaining her. She is fighting for her rights to the extent of 1/3rd share in the joint family properties, and therefore, this Court on 27.02.2008 had directed to defendants to deposit certain amount but that amount has not been deposited by the respondents. Hence, the application.

2 Affidavit-in-reply has been filed on behalf of respondent Nos.1 to 6. They have stated that this Court had not specifically stated as to which respondent should deposit how much amount. They have no intention to disregard the order of this Court, and therefore as per the share granted by the Trial Court they have deposited 1/3rd of the said amount i.e. 1/3rd of Rs.5,000/- from 27.02.2008 to April, 2019. That too on 19.03.2019 and 25.03.2019 respectively.

3 Heard both sides. Both of them have submitted in support of their respective contentions.

4 The perusal of order passed by this Court on 27.02.2008 would clarify that the widow is required to be provided with maintenance and the responsibility is on the members of the joint family and therefore, the defendants were directed to deposit an amount of Rs.5,000/- on every year during the pendency and final disposal of appeal. Schedule was also

provided that amount of Rs.2,000/- shall be deposited on 15.04.2008 and thereafter for subsequent years shall be deposited on or before 15th April. Then it was stated that on depositing said amount the applicant shall withdraw the said amount. In fact a meagre amount was granted. Taking into consideration the fact that it was Rs.5,000/- towards maintenance per year, even that was not deposited by the respondents till the application was moved by the appellant. The said deposit has been made after the hearing of the application on 26.02.2019 before this Court. This definitely shows total disregard by the respondents to observe the order of this Court. Further, if at all they had any kind of confusion regarding the order they could have sought clarification but they were not allowed to be interpreted just to suit their convenience. There was no question of segregating that maintenance amount by shares that was granted by the Trial Court. Under such circumstance, now the respondent Nos.1 to 6 are directed to deposit the entire balance amount, immediately, within 15 days from the date of this order. It would be clarified that, whether other respondents should be made to contribute towards that amount or not, would be decided at the time of final hearing. Therefore, the Civil Application is disposed of with direction to respondent Nos.1 to 6 to deposit the entire balance amount, within 15 days, from the date of this order, in Trial Court and after the said amount is

deposited the same is allowed to withdraw by the present applicant. The applicant is also allowed to withdraw the amount which is already deposited by the respondent Nos.1 to 6 in the Trial Court.

5 Parties to act on authenticated copy.

(Smt. Vibha Kankanwadi, J.)

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