

BDP-SPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5912 OF 2017**

Pushpa Dattatray Shah
(name before marriage
Jayashree Rajaram Shaha)

..... Petitioner.

V/s

Vitthal @ Vitthal Das Dattatray
Shaha & Others

..... Respondents.

Mr. Umesh Mankapure for the Petitioner.

Mr. Balwant V. Salunkhe for Respondent Nos., 1, 3, 4 and 6.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 15, 2019

P.C.:-

1] This Petition is by the original Plaintiff in Special Civil Suit No.19/16 which is instituted for cancellation of Sale Deed, declaration, perpetual injunction and partition. In the suit, Petitioner-Plaintiff moved an application-Exhibit-5 seeking injunction, which came to be allowed on June 28, 2016. Feeling aggrieved, Respondent-Defendant moved Misc. Appeal No.143 of 2016. In the said appeal, learned District Judge passed an order, staying the order of injunction dated June 28, 2016 till decision of the appeal. Hence, this Petition.

2] The submissions are, the learned District Judge has passed the impugned order, staying the order of injunction in a hasty manner and without there being any reasons recorded in support of the said order.

3] If the aforesaid submissions are appreciated, the fact remains that the appeal preferred by Respondent-Defendant is pending adjudication since 2016 and the order staying the order of injunction dated June 28, 2016 is holding the field since passing of the order impugned dated October 26, 2016.

4] That being so, without going into merits as to the legality and validity of the order impugned, it will be appropriate, in my opinion, to direct the learned District Judge to decide the Misc. Civil Appeal No.143 of 2016 expeditiously and, in any case, not later than four months from today.

5] Petition stands disposed of in the aforesaid terms.

(NITIN W. SAMBRE, J.)