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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 10594 OF 2019**

Chiman Punja Jadhav and anotherPetitioners

V/s.

Smt. Lata Prakash Jadhav and othersRespondents

Mr. Avinash Patil for the Petitioner

CORAM : NITIN W. SAMBRE, J.

DATE : OCTOBER 18, 2019.

P.C.

Heard learned counsel for the petitioner.

2 Petitioner judgment-debtor suffered decree for partition and maintenance wherein he was directed to pay maintenance of Rs. 1500/- for total three decree holders who are grand-children and daughter-in-law.

3 The submissions are, the decree is ex-parte and the appeal is

pending. The daughter-in-law is already working as Anganwadi Sevika. According to him, he has no objection to decree for partition, however, arrears of amount of maintenance is required to be stayed till appeal is decided.

4 If the aforesaid submissions in the backdrop of findings recorded by the Civil court who has passed the decree and the Executive Court looked into the holding of the petitioner appears to be total 64 + 69R.

5 It is the contention of the petitioner that he is bed ridden because of his deformity and is in advanced age. The Court below so also this Court is unable to appreciate the said contention as there is no iota of evidence to that effect on record but for statement of the petitioner.

6 As far as the claim that daughter-in-law is working as Anganwadi Sevika is earning for family is concerned, the same issue was never raised before the Court below. Petitioner as such given an

opportunity to raise said issue in appeal, if required by producing documents to that effect under the provisions of Order XLI Rule 26 & 27 of the Code of Civil Procedure, 1908.

7 In view of above, no interference is warranted. Petition as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]