

SAS

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

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.3674 OF 2019**

Ambadas Kacharu Salve

..Petitioner.

V/s.

Smt. Nandabai Balu Nirbhavane & Ors.

..Respondents.

Mr.Sachin Gite for the petitioner.

None for the respondent.

**CORAM : M.S.SONAK, J.**

**DATE : MARCH 22, 2019**

**P.C.:-**

Heard Mr. learned counsel for the petitioner and Mr. learned counsel for the respondent.

2. Challenge is to the order dated June 14, 2018, the operative part of which reads as under :-

“1. The judgment and decree passed in R.C.S. No.16/2016 dated 21-4-2017 is stated until further order.

2. Inform the learned trial Court and Deputy Superintendent, Land Records, Sinnar forthwith. ”

3. Mr.Gite, learned counsel for the petitioner submits that the aforesaid order was made in the appeal even before the delay of 9

months in institution of the said appeal could be condoned. He submits that the Appeal Court vests jurisdiction in the appeal only after the delay is condoned and, therefore, the impugned order dated June 14, 2016 warrants interference.

4. In the alternative, Mr.Gite submits that at the highest Appeal Court could have been granted interim relief as prayed till the due date .

5. For the order which is supposed to be made, there is no necessity of issuing any notice to the respondents.

6. As regards the first contention, though it cannot be said that the contention is devoid of any merits, record indicates that the delay has already be condoned by an order dated July 31, 2018. Therefore, there is no necessity to interfere with the impugned order on the basis of first contention.

7. In so far the second contention is concerned, perusal of the impugned order dated June 14, 2018 makes it clear that the same was to operate until the further orders. It means that the order dated June 14, 2018 is only an ad-interim order and not interim order to operate till the disposal of the appeal. It means that the Appeal Court will have to hear the application on its own merits after giving opportunity of hearing to all the parties and decide the same. Further, in deciding the application for interim relief, the Appeal Court should not be influenced

by any observations made by the impugned order.

8. With the aforesaid clarification, this petition is disposed of.
9. There shall be no orders as to costs.
10. All concerned to act on the basis of an authenticated copy of this order.

*(M.S.SONAK, J.)*