

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (S) No.161/2018 in Second Appeal No.60/2018

Smt. Indirabai and another V Smt. Pratibha Thakre and others

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.S. Nagpure, Adv for appellants.
 Shri M.I. Dhattrak, Adv for resp. nos. 2, 3 and 4.

CORAM : S.M. MODAK, J.

DATE : 08th JULY, 2021.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard learned Advocate Shri Nagpure for the appellants and learned Advocate Shri Dhattrak for respondent nos. 2 to 4.

3. This Court has already admitted the appeal on 24-10-2018 and hearing is expedited. So also as per the order dated 20-03-2018, ad-interim relief is granted in terms of prayer Clause(a). There is a request to continue the same till disposal of the present appeal. There is a request on behalf of learned Advocate Shri Dhattrak to stay the execution of the trial Court decree also.

4. It is true that the trial Court has decreed the partition suit of the present appellants and dismissed the counterclaim about specific performance. Whereas the First Appellate Court has reversed the partition decree and

allowed the specific performance relief. If stay to the specific performance decree is continued the respondent nos. 2 to 4 apprehend that the plaintiff may execute the partition decree. Even though the possibility is remote, the interest of respondent nos. 2 to 4 also needs to be protected. Hence, ad-interim relief granted in terms of the order dated 20-03-2018, is continued till final disposal of this appeal. It is also made clear that the present appellants will not execute the trial Court decree about the partition.

5. Application is disposed of.

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Filing of certified copy of the memo of Second Appeal is dispensed with.

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Six weeks time is granted to the appellants to file private paper book.

JUDGE