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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 7764 OF 2021

SMT. NIRMALA DEVIDAS GAIKWAD PETITIONERS
AND ORS

V/s.

SMT. MANJULABAI BHAGWAN GAIKWAD RESPONDENTS
AND ORS

Mr. Jayendra D. Khairnar for the petitioners

Mr. A. P. Vanarase, AGP for the State

Mr. Mahadeo A. Choudhari for respondent no. 2

Ms. Manisha Jagtap – Legal Aid Advocate for respondent no. 2

CORAM : NITIN W. SAMBRE, J.

DATE: JANUARY 6, 2022.

P.C.:

1] Since Mr. Mahadeo Choudhari has entered his appearance for respondent no. 2, appointment of Ms. Manisha Jagtap through Legal Aid Services is discharged.

2] Having heard learned counsel for the petitioner Shri. Khairnar and Mr. Choudhari, counsel for respondent no. 2, what can be

noticed is Decree for partition passed in R.C.S. No. 20/2014 is assailed at the behest of the petitioner in Appeal which was time barred. Prayer of the petitioner for condonation of delay is pending adjudication during which interim order on 18/08/2021 came to be passed in relation to part of the Suit land gat nos. 45/1, 46 and 248/2 at mouje Talwade (Bhamer), Tal Baglan. In response to the court's query, I am informed by Mr. Khairnar that parties are already served and the application for condonation of delay can be disposed of expeditiously by the Appellate Court.

3] Mr. Choudhari, learned counsel for respondent no. 2 while opposing the prayer would urge that order impugned is passed having regard to the Decree passed in R.C.S. No. 16/2002. The petitioner has defaulted in filing written statement in the present suit i.e. R.C.S. No. 20/2014. According to him, execution is already at an advanced stage as is reflected in the impugned order. As such, dismissal of petition is sought.

4] In the aforesaid background, in my opinion, present petition

can be disposed with directions to the Appellate Court to decide the delay condonation application and also prayer for grant of interim relief expeditiously. Let the aforesaid prayers be decided within period of 12 weeks from today. In the meantime, status-quo as on today be maintained.

5] Petition stands disposed of accordingly.

[NITIN W. SAMBRE, J.]