

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11884 OF 2013

Ganesh Anandrao Yadav (Nunekar)

and ors.

: Petitioners.

Versus

Shankarrao Salunkhe and ors.

: Respondents.

Mr. Kuldeep Uttamrao Nikam for the Petitioners.

CORAM : R. M. SAVANT, J.

DATE : 24th December 2013

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 22/11/2013 passed by the learned Ad-hoc District Judge-1, Sangli by which order the application for stay of the decree, pending the Appeal in the District Court came to be rejected.

2 The suit in question has been filed by the Petitioners/Plaintiffs for a declaration that the sale deed dated 19/12/2005 is null and void and not executed for legal necessity. The sale deed has been executed by the grandfather of the Petitioners/Plaintiffs one Babu Yadav Nunekar.

3 The Trial Court, whilst decreeing the suit in question, has recorded a finding that the relief in respect of the sale deed cannot be granted as the sale deed has been executed for legal necessity, however, excluding the land

covered by the sale deed, the parties have been granted 1/4th share each.

4 The Petitioners/Plaintiffs aggrieved by the decree passed by the Trial Court have gone in Appeal by filing Regular Civil Appeal No.47 of 2013 in which an application for stay of the decree came to be filed and the said application has been rejected by the Lower Appellate Court by the impugned order and the rejection is on the ground that the stay would cause prejudice to the parties especially in the teeth of the finding recorded by the Trial Court as regards the sale deed being executed for legal necessity. The limited stay which was granted by the Trial Court was that the Plaintiffs/Petitioners' possession should not be disturbed till the properties are partitioned.

5 In my view, having regard to the reasons mentioned in the impugned order, no case for interference is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]