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

WRIT PETITION NO.9612 OF 2014

Shaikh Siraj Shaikh Nizam Musalman.

Since Deceased through his L.Rs.:-

Shabnurbi Shaikh Siraj and others.

..Petitioners

-Versus-

Sayyed Mustafa Sayyed Lal.

..Respondent

.....

Mr.J.K.Bansod h/f Mr.S.P.Brahme, Advocates for the Petitioners.

Mr.S.V.Natu, Advocate for the Respondent.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd March, 2015

Per Court:

1 The Appeal Court by an order dated 03.09.2014 recorded the statement of the Respondent that no execution proceedings have been filed looking to the institution of the Regular Civil Appeal No.36/2014. Considering the said statement, the Appeal Court has expedited the appeal and given choice of dates for final hearing to the Petitioners/ Appellants. By consent, the matter was posted to 03.11.2014 by the impugned order.

2 This Writ Petition is filed on 14.10.2014 challenging the impugned order which is practically a consenting order.

3 Mr.Natu, learned Advocate appearing for the Respondent, reiterates that since the appeal was instituted, the execution proceeding has not been preferred.

4 The Petitioners pray that an undertaking be taken from the Respondent to this effect.

5 Taking into account the fact situation and the impugned order by which the Appeal Court has looked to the convenience of the Petitioners/ Appellants and given them the choice of dates for final hearing, I am not inclined to accept the prayer of the Petitioners as regards directing the Respondent to file an undertaking.

6 In the light of the above, no interference is called for and the Writ Petition is dismissed.

7 Needless to state, Regular Civil Appeal No.36/2014 which is now posted on 16.04.2015 shall be worked out by both the sides and the Appeal Court shall decide the same on or before 31.05.2015.

(RAVINDRA V. GHUGE, J.)