

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11996 OF 2015**

Dashrath Ganu (deceased) ..Petitioners
through L.Rs.
1A) Bhimrao Dasharath Jadhav-
Dinde and ors

Vs

Prakash alias Raju Shivram .. Respondent
Puranik

Mr. Ranjeet Patil, Advocate for Petitioners.

CORAM : R.G.KETKAR,J.
DATE : 11/12/2015

PC:

1. Not on Board. At the request of Mr.Patil, taken up for admission. Heard Mr.Ranjeet Patil, learned counsel for the petitioners.
2. By this Petition under Article 227 of the Constitution of India, original defendants have challenged the Judgment and order dated 29.10.2015 passed by the learned Principal District Judge, Sangli in Misc Application No. 241 of 2015. By that order, the learned District Judge rejected the application made by the petitioners for transferring Regular Civil Appeal No.176 of 2015 pending before Adhoc District Judge, Sangli to any other Court. The petitioners have also challenged the order dated 5.11.2015 by which the learned District Judge extended stay upto

26.11.2015 and made it clear that thereafter the stay shall stand automatically vacated. While passing the order on 5.11.2015, the learned District Judge recorded that the suit is instituted in the year 1960. Both the appellants are senior citizens and perusing the contents of the plaint, it is evident that the appellants (petitioners herein) are protracting the hearing which is causing great prejudice to other side. It is in these circumstances, the learned District Judge extended stay upto 26.11.2015.

3. Mr Patil submitted that paper book is ready and the petitioners-appellants will extend full cooperation for disposal of the appeal in a time bound manner. He, therefore, submitted that stay may be continued pending the appeal.

4. As far as challenge to the order dated 29.10.2015 is concerned, I do not find that any case is made out by the petitioners. The learned District Judge has recorded that suit was pending more than 54 years and 8 months and it was finally decided on 23.4.2015. Application for transfer was made only on the ground that the learned District Judge is insisting to decide appeal expeditiously. The said aspect is duly considered by the learned District Judge. It was noted in paragraph 7 that tenancy proceedings were pending since 1972 to 2015. That apart, as noted earlier, the suit is instituted in the year 1960. In view thereof, the learned District Judge rightly rejected the application

for transfer. No case is made out for interfering with that order.

5. As far as the order granting stay upto 26.11.2015 is concerned, by order dated 26.11.2015, stay was granted till 4.12.2015. The order was, thereafter, passed on 3.12.2015 and petition was ordered to be listed on 5.12.2015 and time to time, stay was extended. In view thereof, no fruitful purpose would be served by issuing notice to the respondent, lest hearing of the appeal will further get delayed.

6. That apart, Mr. Patil assures that the petitioners will extend full cooperation for expeditious disposal of the appeal in a time bound manner and he has already filed paper book. In view thereof, stay granted by the trial Court is extended upto and inclusive of 31.3.2016.

7. Learned District Judge is requested to decide Appeal on or before 31.3.2016 and till that dated, i.e. 31.3.2016, stay granted by this Court shall remain in force. It is expressly made clear that if the petitioners try to delay hearing of the appeal beyond 31.3.2016, the stay granted by this Court shall stand automatically vacated without further reference to the Court. Petition is disposed of.

(R.G.KETKAR, J.)