

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.765 OF 2011**

Shiva Natha Patil (deceased) through Lrs. Vs. Indubai Shamrao Patil (deceased) through Lrs. & ors.	..Petitioners ..Respondents
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**Mr. V. B. Rajure for the Petitioners
Mr. J. Shekhar for the Respondent Nos,1(a) to 1(d)**

**CORAM : R. M. SAVANT, J.
DATE : 4th SEPTEMBER, 2015**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 14-12-2010 passed by the Learned Civil Judge Junior Division, Kalgai, by which order, the application for stay of the Suit filed by the Petitioners came to be rejected.

2 The Respondent No.1 is the original Plaintiff in the Suit in question being Regular Civil Suit No.51 of 1979. In the said Suit, an issue of tenancy has arisen which has been framed and which has been referred to the tenancy authority. In the first round, the Tahsildar-Kagal decided the issue against the Petitioners who are the heirs of the original Defendant No.6 and rejected their claim of they being tenants. Against the said decision of the Tahsildar, the Petitioners filed an Appeal before the Sub Divisional Officer

(SDO) and whilst the Appeal was pending filed the instant application for stay of the Suit. The said application came to be rejected on the ground that there is no stay from this Court.

3 It appears that pending the above Petition, the SDO has decided the Appeal by order dated 30-12-2011 by which, the Appeal was allowed and the matter was remanded back to the Tahsildar for a denovo consideration of the claim of the Petitioners who are the original Defendant Nos.4 to 6.

4 In view of the fact that the matter has now been remanded back to the Tahsildar by the SDO, in my view, it would be just and proper to stay the Regular Civil Suit No.51 of 1979 pending the decision of the Tahsildar. The parties would be at liberty to produce the order of the Tahsildar before the Trial Court as and when he decides the said application for tenancy.

5 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]