

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3742 OF 2014**

Ramjan Abbas Jamadar & Ors ..Petitioners

Vs

1. Ayub Abbas Jamadar and Ors. .. Respondents

Mr.Anilkumar Patil, Advocate for Petitioners.

CORAM : R.G.KETKAR,J.

DATE : 18/06/2015

PC:

1. Heard Mr. Anilkumar Patil, learned counsel for the petitioners at length.

2. By this Petition, the petitioners have challenged the Judgment and order dated 22.11.2013 passed by the learned Adhoc District Judge-1, Sangli below Exhibit-7 in Regular Civil Appeal No.190 of 2013. By that order, the learned District Judge granted stay of execution of the trial Court's decree till decision of Appeal. Having regard to fact that parties are senior citizens, he expedited hearing of the appeal.

3. In support of this Petition, Mr. Patil submitted that the petitioners have instituted suit for partition and separate possession, being Regular Civil Suit No.326 of 1997. On 31.8.2005, suit was partly decreed. Aggrieved by that decision Appeal was filed. That appeal was allowed and decree of trial

Court was set aside and suit was remanded. After remand, suit was decreed on 25.8.2013. It is against this decision, Regular Civil Appeal No.190 of 2013 is preferred. Mr. Patil submitted that before the learned District Judge it was pointed out that the petitioners are fighting for their rights since last 16 years. Alternatively, submission to pass usual interim order in partition suit, namely, let partition proceedings go on and delivery of possession may be stayed, was also made. The learned District Judge, instead of permitting partition proceedings to go on, granted stay of execution of the decree till disposal of the appeal.

4. I have considered the submissions advanced by Mr Patil. I have also perused the material on record. As noted earlier, the petitioners have instituted suit in the year 1997. Initially, it was partly decreed. That decree was set aside and matter was remanded. After remand, suit was decided on 25.3.2013. The learned District Judge also noted that the parties are senior citizens and accordingly expedited hearing of Appeal. The learned District Judge also did not accept alternative submission made on behalf of the petitioner for permitting partition proceedings to go on and stay of delivery of possession. In this peculiar circumstances, I am of the opinion that the learned District Judge ought to have disposed of the Appeal in a time bound manner, more so when parties are senior citizens and the

suit is of 1997. The suit was remanded in appeal. Having regard to the fact that the learned District Judge has stayed decree of partition, no case is made out for invocation of powers under Article 227 of the Constitution of India. In the facts and circumstances of the case, in my opinion, Appeal deserves to be disposed of in a time bound manner. Hence, the following order.

5. Petition is dismissed.

Learned District Judge is requested to hear and decide the Appeal within three months from production of the authenticated copy of this order. It is made clear that I have not expressed any opinion on merits of the Appeal. Order accordingly.

(R.G.KETKAR, J.)