

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3310 OF 2015

Shri Ghanashyamdas J. Pilani]
(Since Deceased) Through L.R.s and Ors.] ... Petitioners

Versus

Smt. Narmadabai Jethalal Thacker]
(Since Deceased) Through L.R.s and Ors.] ... Respondents

Mr. Omar Khaiyam Shaikh i/b Legal Bond for Petitioners.
Mr. R. S. Datar for Respondents.

CORAM :- M. S. SONAK, J.
DATE :- APRIL 06, 2015

P. C. :-

1. This petition challenges common Order dated 23/02/2015. The two applications, in terms applied for a stay in the matter of issue of possession warrant under Order 21 Rule 35 of the CPC.

2. Admittedly, the decision of this Court setting aside the *ex-parte* decree has been upset by the Hon'ble Apex Court. The two applications were taken out on the ground that the Petitioners have preferred Review Petition before the Hon'ble Apex Court and the same are pending consideration.

3. As of today, there is no interim relief granted by the Hon'ble Apex Court. Further, as per the Petitioners' own case, the matters are pending before the Hon'ble Apex Court. In such circumstances, when the Hon'ble Apex Court is seized of the matters, it was not appropriate on the part of the Petitioners to seek stay on the issuance of possession warrant either from the Joint Civil Judge, Junior Division, Thane, or for that matter, this Court.

4. In the absence of any interim relief from the Hon'ble Apex Court, it cannot be said that there is any jurisdictional error in the making of the impugned order.

5. Accordingly, the petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)