

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3747/2015

Shri Chellaram s/o Relumal Bhagwani and another

..Versus..

Shri Shrichand s/o Namamal Wadhawani

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 13.7.2015

Heard Shri C.F. Bhagwani, the learned advocate for the petitioners.

The judgment debtors take exception to the interim order passed by the learned District Judge imposing condition of deposit of the principal amount for granting stay to the execution of the decree passed by the trial Court. The learned advocate submitted that the trial Judge has failed to exercise the jurisdiction vested in him by the proviso below Rule 1(3) of Order 41 of the Code of Civil Procedure (as applicable to the State of Maharashtra). It is submitted that the above referred provision enables the Appellate Court to dispense with the requirement of deposit being made by the appellant while seeking stay to the execution of the money decree.

The learned District Judge has considered the submissions which were made before him relying upon the

above referred provisions in paragraph no.11 of the impugned order and after considering the proposition of law laid down in the judgments as referred before him, has passed the impugned order. I find that the impugned does not suffer from any patent illegality or irregularity. It cannot be said that the learned District Judge has failed to exercise the jurisdiction vested in him. I see no reason to interfere with the impugned order. The petition is dismissed. No costs.

JUDGE

Tambaskar.