

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 3124 OF 2016

Shri Popat s/o Hari Raykar and anr. .. Petitioners/Original
Judgment Debtors

vs

Shri Nathu Bayaji Raykar (deceased)
through Legal Representatives :

1(a) Shankar Nathu Raykar and others .. Respondents/Orig.
Decree Holders

Mr. Niteen V. Gaware, Advocate for petitioners
Mrs. Anjali Dube (Bajpai) Advocate for Respondents

CORAM : SUNIL P. DESHMUKH, J.
21ST MARCH, 2016

ORDER:

1. After hearing learned counsel for the parties, position emerges that regular civil appeal bearing no. 210 of 2007 filed by petitioners-original defendants-judgment debtors challenging the judgment and decree of the trial court in regular civil suit no. 37 of 1995 dated 31-01-2006 was dismissed for want of prosecution. Miscellaneous civil appeal no. 61 of 2015, seeking condonation of delay in preferring application for revival of said appeal has been moved.

2. Petitioners apprehend, pending consideration of miscellaneous civil appeal no. 61 of 2015 seeking condonation of delay in making application for resurrection of regular civil appeal,

their dispossession from suit property. It is further being stated that dispossession would be in respect of residential premises. As such, protection is sought.

3. Learned counsel for respondents, however, submits that approach by petitioners in appeal is not only belated but lot of aspects are involved in the matter and those will have to be explained by them.

4. On the whole, position emerges that petitioners apprehend immediate dispossession and as such have moved writ petition under anxiety without making any attempt and / or exploring possibility of interim protection from the appellate court where the proceedings referred to above are pending.

5. In the circumstances, petitioners seek respite. Learned counsel for respondents opposes.

6. It would be open for the petitioners to make appropriate approach before the appellate court. Having regard to aforesaid, application, if any, is filed by petitioners within a period of fortnight from the date of this order, the same be decided as early as possible, preferably within a period of two weeks thereafter.

7. In the meanwhile, position with regard to possession be maintained as it is.

8. This order is being passed, however, subject to payment of costs of Rs.,7500/- in appellate court. Costs be payable to respondents-decree holders. Costs be deposited within a period of two weeks from today.

SUNIL P. DESHMUKH,
JUDGE

pnd