

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

**917 CA/11216/2012  
IN  
SA/674/2012  
WITH  
CA/10506/2016  
IN  
SA/674/2012**

**GOGA SOMA SARUKTE AND ANR.**

**VERSUS**

**GIRJABAI SOMA SARUKTE AND ORS.**

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Mr. R.L.Kute, Advocate for Applicants.

Mr. V.Y.Bhide, Advocate for respondent

Nos 2-A to 2-C.

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**CORAM : T.V.NALAWADE, J.**

**DATE : 28<sup>th</sup> JULY, 2016**

**ORAL ORDER :-**

. The application is filed for grant of stay to the execution of decree given in favour of the plaintiffs. Heard both sides.

2. This Court has already directed original defendant to deposit the amount of ₹ 90,000/-. This order

was made to see that the interest of the Decree Holders is protected. This amount needs to be deposited for getting stay which will be of following nature.

3. This Court has already admitted the Appeal by formulating substantial questions of law. Even if the best possible case of the defendants is accepted, it can be said that the plaintiffs together will get at least 19/40<sup>th</sup> share in the suit property. In view of this position of law, the execution of the decree to that extent can not be stayed. So, the execution of the decree is to go on to see that equitable partition is effected and 19/40<sup>th</sup> share is given to the original plaintiffs. So far as the remaining part of the decree is concerned, execution of it is stayed subject to the aforesaid condition of depositing ₹ 90,000/-.

4. Civil Application stands allowed and disposed of in the above terms. Amendment application is to be considered along with Appeal and its necessity will be considered at the time of final hearing.

**[T.V.NALAWADE, J.]**