

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.7273/2015 IN SA/280/2015 WITH
CA/16100/2015 IN SA/280/2015

BALIRAM TUKARAM TANDALE
VERSUS
MAHANANDA SHIVSHANKAR KARAD AND OTHERS

...
Advocate for Appellants : Gangakhedkar Shailendra S
Advocate for Respondents : R.D. Biradar For R/1 To 3
Adv.Mr.Kabade Vivek V For R/5 &7.

...

CORAM : SUNIL P. DESHMUKH,J.

DATED : 29TH JANUARY,2016

PER COURT :-

Heard learned counsel for the parties.

2] It is an application moved for vacating interim relief granted on 20/07/2015 while admitting the Second Appeal. The Second Appeal has been preferred by defendant against the judgment and decree for partition and separate possession. According to learned counsel for the appellant in Second Appeal, appellants are in possession of the suit property and that interim relief had been operating during the pendency of the Regular Civil Appeal.

3] Learned counsel Shri Biradar for respondents however, contends that this case is fully covered by a Supreme Court judgment and as such there is no substance in the appeal. However, having regard to that the matter is already admitted, it will have to be heard finally. In such a case where interim relief is granted and since it had been contended that appellants in Second Appeal are in possession, interim order in the Civil Application is being modified only to the extent of directing that the execution proceedings may go on save and except delivery of possession. Accordingly, both Civil Applications stand disposed of.

(SUNIL P. DESHMUKH,J.)

umg/