

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

WRIT PETITION NO. 347 OF 2016
WITH
CIVIL APPLICATION NO. 8089 OF 2016
AND
CIVIL APPLICATION NO. 8091 OF 2016

Nandabai Pandit Ubedal and another ... Petitioners

Versus

Mandakini Ramnath Keshbhat and others ... Respondents

Mrs. M. A. Kulkarni, Advocate for petitioners
Mr. M. R. Deshmukh, Advocate for respondent No.1
Respondent No.2
Mr. K. R. Doke, Advocate for respondent No.3
Respondents No. 4, 5 and 8 are served

CORAM : SUNIL P. DESHMUKH, J.
DATE : 17th June, 2016

ORDER :

1. Heard learned counsel for parties.
2. Writ petition has been moved against order dated 31-10-2015 passed by Ad-hoc District Judge-4, Ahmednagar, on Exhibit-7 in Regular Civil Appeal No. 170 of 2015. Said regular civil appeal had been filed by original defendant No.1 and defendant No.3 against the judgment and order dated 25-03-2015 passed by Joint Civil Judge, Junior Division, Shevgaon in Regular Civil Suit No. 196 of 2006 which had been filed by respondent No.1, whereunder

partition and separate possession of share in suit property as per schedule-A had been directed. Accordingly, it appears that the matter had been sent to Collector for execution of decree.

3. Civil application No. 8089 of 2016 has been moved seeking stay to the execution of said decree, since Exhibit-7 in regular civil appeal has been rejected. It is pertinent to note that stay to said execution of decree had been refused by order on Exhibit-7, passed on 31-10-2015.

4. At this stage Mr. Deshmukh, learned counsel appearing for respondent No.1 – original plaintiff fairly states that plaintiff would prefer adjudication of matter on merit rather than of interlocutory applications. He therefore, requests to direct the appellate court to expedite hearing and disposal of the regular civil appeal as early as possible. He points out that the above referred regular civil appeal is pending at the stage of preparation of paper-book and as such, requests that preparation of the same may be directed to be expedited and in the meanwhile, save and except delivery of possession, rest of the execution proceedings be allowed to be completed.

5. In view of aforesaid, Regular Civil Appeal No. 170 of 2015 pending before Ad-hoc District Judge-4, Ahmednagar, be proceeded with and disposed of expeditiously preferably within a period of eight months from the date of receipt of writ of this order. Requisite

paper-book in said regular civil appeal be prepared within a period of four weeks from the date of receipt of writ of this order. During pendency of said appeal, save and except delivery of possession, rest of the execution proceeding may go on.

6. With aforesaid, writ petition along with civil applications, stands disposed of.

SUNIL P. DESHMUKH,
JUDGE

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