

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 193 OF 2016

MRS. LAXMI RAMRAI SHIRODKAR., ... Petitioner
Versus
CONFRARIA OF OUR LADY OF ROSARY
REP.BY IT'S MANAGING COMMITTEE
CON OF MR.ANTONIO M ELIZABETH AND
8 ... Respondent

Shri Ressano Hector Noronha, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 6th June, 2016

ORAL ORDER:

Heard learned Counsel for the petitioner.

2. The petitioner is the judgment debtor no.1(a) who is challenging the order dated 9/01/2015 passed by the Executing Court. By the impugned order the Executing Court has refused to stay the execution, in order to enable the petitioner to file Second Appeal. The judgment and order passed by the learned District Judge is dated 13/09/2006 and still the petitioner has not filed any Second Appeal. It is evident that, mere filing of an appeal does not operate as a stay. Thus, it would be atrocious to expect the Executing Court to stay its hands, as the petitioner intends to file a Second Appeal. The learned Counsel has pointed out to the provisions of Order 21 Rule 26 of the Civil Procedure Code in support of the submission that the Executing

Court should have stayed its hands. The submission cannot be accepted for the reasons that Order 21 Rule 26 of the Civil Procedure Code applies when the decree has been sent for execution to a Court different than the Court who has passed the judgment, which is admittedly not the case in the present matter. Even otherwise these provisions would not be attracted in this case.

3. I do not find any irregularity in the impugned order. In the result, the Writ Petition is dismissed.

C. V. BHADANG, J.

NH