

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Amk

FIRST APPEAL NO. 1100 OF 2013

Shri Babanrao Sakharam Dherange & Ors. .. Appellants
Vs.
Ms. Snehal Chandrashekar Pasale & Ors. .. Respondents

Ms. Pallavi N. Dabholkar for the Appellants.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.
DATE : 1st OCTOBER, 2016.

P. C. :

1. This appeal is preferred against the Judgment and Decree of partition dated 04.07.2012 passed by the Extra Joint Civil Judge, Senior Division, Pune in Special Civil Suit No. 1190 of 2006.

2. It is submitted by the learned counsel for the appellants that now the Tahasildar, Khed, Pune has issued a notice for partition of the suit property on 25.08.2016. According to learned counsel for the appellants, if the stay is not granted to the execution of the decree, the appellant will suffer great hardship as the very purpose of filing the appeal will be frustrated.

3. The office note shows that, in view of the enhancement of pecuniary jurisdiction of the District Court, the appeal needs to be transferred to the District Court, Pune for disposal, according to law.

4. Now, considering that, the decree is already sent to the District Collector, Pune as per Section 54 of the CPC for effecting the partition by metes and bounds and as already the Tahasildar, Khed has also issued the notice, it is directed that except for actual partition by metes and bounds and delivery of the possession, other formalities like taking survey and hearing the parties can be proceeded. The stay is granted only to the extent of delivery of possession till the Appeal is transferred to the District Court and the appellant seek further relief from the District Court.

5. The Registry is directed to send record and proceedings of the Appeal forthwith to the District Court, Pune.

[DR. SHALINI PHANSALKAR-JOSHI, J.]