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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.885 OF 2017

Baraku Saradar Patil and Another

PETITIONER

VERSUS

Gorakh Sardar Patil

RESPONDENT

.....

Mr. Amit S. Savale, Advocate for the petitioner

Mr. P. G. Patil, Power of Attorney Holder for respondent in person

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 20th JUNE, 2017

ORDER :

1. Heard learned advocate for the petitioners and power of attorney holder of the respondent.
2. The petition has been moved against rejection of application Exhibit-6 moved by the petitioners – appellants in Civil Appeal No.76 of 2016 for interim relief of staying execution of decree.
3. Special Civil Suit No. 66 of 2014 had been instituted by plaintiff – respondent seeking possession of certain immovable properties and some amount against the defendants. Suit had not been prosecuted diligently on behalf of the defendants and

decree had been granted in favour of the plaintiff, against which Regular Civil Appeal No. 76 of 2016 has been preferred by the defendants, which is pending, after condonation of delay.

4. The appeal was directed to be decided by this court under order dated 3rd February, 2016, within a period of four months from the date of receipt of writ of the order of this court in second appeal No. 579 of 2015. In the meantime, it appears that application for stay to execution of decree had been moved and the same has been rejected and thus defendants – appellants are before this court.

5. After hearing the parties, it transpires that the decree passed in special civil suit No. 66 of 2014 by the trial court has been executed to the extent of delivery of possession of agricultural land. So far as house properties are concerned, possession is yet not handed over to the decree holder. In the circumstances, it would be expedient that *status quo* be maintained in respect of house properties as on the date till disposal of regular civil appeal No. 76 of 2016.

6. Power of attorney holder, who is appearing in person states that he and his father are being harassed and in the process he is not being allowed to cultivate the land.

7. Learned advocate for the petitioner, however, has different version stating that it is other way round, the power of attorney holder is vexing persons and the courts by frivolous actions.

8. Be that as it may. Regular Civil Appeal No.76 of 2016 appeal be decided on merits within a period of two months from the date of receipt of writ of this order. As observed in the earlier order all necessary formalities as ordered, if are not already completed be completed within a period of three weeks from the date of receipt of writ of this order and appeal be proceeded with and decided within the time stipulated.

9. Writ petition, as such, stands disposed of.

[SUNIL P. DESHMUKH, J.]